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ENVIRONMENTAL PROTECTION

ENVIRONMENTAL MANAGEMENT

Division of Environmental Safety and Health

Regulations Governing the Certification of Laboratories and Environmental Measurements

Proposed new rule: N.J.A.C. 7:18-2.9A

Proposed amendments: N.J.A.C. 7:18-1.4 through 1.7, 2.4 through 2.6, 2.9, 2.10, 2.13 through 2.15, 2.20, 2.21, 4.1, 4.3, 4.5, 5.1, 5.3 through 5.5, 6.1, 6.4, 7.1, 8.1 through 8.5, 9.2 through 9.4, and 10.4

Authorized by: Bob Martin, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:1D-9 et seq., 13:1E-1 et seq., 13:1K-6 et seq., 26:2C-1 et seq., 26:2D-70 et seq., 58:10-23.11 et seq., 58:10A-1 et seq., 58:12A-1 et seq. and 58:12A-26 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement

DEP Docket Number: 08-14-10

Proposal Number:

Submit comments by (60 days after publication) electronically at www.nj.gov/dep/rules/comments.

The Department of Environmental Protection (Department) encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Alice A. Previte, Esq.

Attention: DEP Docket Number 08-14-10

Office of Legal Affairs

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This rule proposal can be viewed or downloaded from the Department's web page at www.nj.gov/dep/rules.

The agency proposal follows:

Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

N.J.A.C. 7:18, Regulations Governing the Certification of Laboratories and Environmental Measurements (Laboratory Certification rules), governs the certification of and the procedures used by laboratories that conduct analytical testing in response to many of the Department's regulatory programs. The Department's drinking water, groundwater, wastewater, air, soils, solid waste, hazardous waste, and sludge rules require regulated entities to conduct testing to ensure compliance with the relevant rules. The results of those tests demonstrate that the regulated entity is compliance with the applicable regulatory standards, established in accordance with the governing statutes.

In order that the Department is certain that it can rely upon the test results, it requires that tests be conducted only by laboratories that are certified under the Laboratory Certification rules. For example, the Private Well Testing Act rules at N.J.A.C. 7:9E require that wells be sampled

for substances including coliform bacteria, nitrate, iron, manganese and pH. Analytical tests of the well samples must be performed by a laboratory certified for the relevant parameters, using methods set forth in the Laboratory Certification rules. The test results are then submitted to the Department. Similarly, the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A require periodic monitoring to ensure that a facility's discharges of pollutants into the surface water or ground water of the State do not exceed the levels that are authorized under the facility's NJPDES permit. The monitoring samples are to be analyzed by a certified laboratory, and the results provided to the Department. Some regulated entities have laboratories in house, while others rely upon independent laboratories. In either circumstance, the laboratory must be Department certified. The Laboratory Certification rules establish procedures and criteria for the affected laboratories to obtain and maintain certifications, and the requirements laboratories must follow in their work with environmental samples. Regulations that require samples to be tested by certified laboratories include the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.; the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; the radon provisions of the Radiation Protection Act, N.J.S.A. 26:2D-70 et seq.; the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq.; the Spill Compensation and Control Act, N.J.S.A 58:10-23.11 et seq.; the Private Well Testing Act, N.J.S.A. 58:12A-26 et seq.; and the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.

The laboratory certification program is an essential part of the Department's mission. The Department's permit, site remediation, enforcement, research, and technical programs depend on obtaining reliable, accurate, precise, high-quality data regarding samples of drinking

water, groundwater, wastewater, air, soils, solid waste, hazardous waste, and sludge. The laboratories providing these data therefore must be depended upon to meet quality assurance and quality control requirements. The purpose of the laboratory certification program is to ensure that dependability. New Jersey businesses, residents and the Department all benefit as a result.

The Department proposes two general categories of amendments: amendments to the operation of the laboratory certification program generally, including amendments to incorporate by reference The NELAC Institute standards for laboratory certification, and to update terminology; and amendments to the categories of certification that the Department provides, and the fees for that certification. Proposed amendments also correct grammar and update Department addresses.

Laboratory Certification Program

Under the laboratory certification program, results of testing and analysis can be accepted to establish compliance with the Department's drinking water, groundwater, wastewater, air, soils, solid waste, hazardous waste, and sludge rules only if the testing or analysis is performed by an environmental laboratory certified by the Department. To obtain and maintain its certification, a laboratory must apply for certification and meet the standards set forth in the Laboratory Certification rules. The standards govern laboratory facilities, personnel, equipment and instrumentation, calibration and maintenance, quality assurance/quality control, laboratory records, data reporting and maintenance, and other laboratory practices. The Department evaluates compliance with these standards through on-site audits of environmental laboratories.

The Department also uses a proficiency testing program to evaluate a laboratory's performance in analyzing samples that contain known concentrations of specific parameters.

The existing rules at N.J.A.C. 7:18-1.4(a) offer laboratories a choice of certification through the New Jersey Environmental Laboratory Certification Program (NJ-ELCP) pursuant to N.J.A.C. 7:18, or accreditation under the National Environmental Laboratory Accreditation Program (NELAP), pursuant to standards promulgated by the National Environmental Laboratory Accreditation Conference (NELAC), which are incorporated into the Laboratory Certification rules by reference, in accordance with existing N.J.A.C. 7:18-1.5(d). (The New Jersey accreditation under NELAP is referred to as NJ-NELAP.) NJ-NELAP certification under the NELAC standards is proposed to be replaced by certification under the standards of The NELAC Institute (TNI), to be incorporated by reference at proposed amended N.J.A.C. 7:18-1.5(d). As a member of TNI, New Jersey has agreed to amend its rules to replace the NELAC standards with the TNI Standards. (In this proposal, the Department refers to both "accreditation" under NJ-NELAP and "certification" under NJ-ELCP as "certification.")

NJ-ELCP is the New Jersey-specific program, and NJ-NELAP is a national program; both are voluntary. The Department accepts either the national or the State-specific credential. Since the NJ-ELCP and the NJ-NELAP differ, the Department does not allow a laboratory to participate in both programs at the same time. (See N.J.A.C. 7:18-1.4(a)1.)

The TNI Standards to be incorporated include NELAP, the National Environmental Field Activities Program (NEFAP), and the Stationary Source Audit Sample (SSAS) program. Although the Department has not applied for recognition to participate in NEFAP, and has not agreed to accept the TNI approved providers for SSAS audit samples, if the Department

undertakes either, the standards will be in place and no further rule amendment will be required. The proposed amendment to N.J.A.C. 7:18-1.5(d) provides an address where the TNI Standards may be obtained. The address to obtain the NELAC Standards, which are superseded by the within proposed amendments, is no longer necessary.In 1995 State and Federal officials voted to approve an interim Constitution and Bylaws establishing NELAC. At the 1999 Annual NELAC Conference, New Jersey and nine other states became the first NELAP accreditation bodies. The other nine states were California, Florida, Illinois, Kansas, Louisiana, New Hampshire, New York, Pennsylvania and Utah. Since that time, the states of Minnesota, Oregon, Texas and Virginia have also been approved as NELAP accreditation bodies and California has withdrawn.

In 2005 the United States Environmental Protection Agency (USEPA) announced that through a series of cooperative agreements it would be able to provide support for facilitating NELAC's transition to self-sufficiency. These agreements were consistent with the recommendations of the Committee on National Accreditation of Environmental Laboratories (CNAEL, chartered in 1991 under the Federal Advisory Committee Act (FACA)) and the 1993 State/USEPA Focus Group. In 2006 a Memorandum of Agreement was executed between the Institute for National Environmental Laboratory Accreditation (INELA) and NELAC that resulted in the creation of a Partnership Planning Team. The Team developed a new model for the transition to self-sufficiency that was accepted by all affected parties, which model became TNI, a non-profit corporation. The TNI Standards were developed by the same consensus process used to develop the NELAC Standards. The TNI Standards reference the current version of ISO 17025 (the International Standards Organization's general requirements for the competence of testing and calibration laboratories), incorporate ISO 17011 (general requirements

for accreditation bodies accrediting conformity assessment bodies) and organize the language of the standards to allow for an easier interpretation of the requirements. TNI is recognized by the American National Standards Institute (ANSI) as a standards development organization.

The TNI Standards consist of three sectors: Environmental Laboratory (NELAP), Field Sampling and Measurement (National Environmental Field Activities Program (NEFAP)), and Stationary Source Audit Sample (Stationary Source Audit Sample (SSAS)) program. State participation in NELAP, NEFAP or SSAS is voluntary. The Department currently participates only in NELAP. The Department will consider at a later date whether to apply for the recognition required to participate in NEFAP and whether to agree to accept the TNI approved providers for SSAS audit samples.

TNI's membership consists of recognized accreditation bodies, state and Federal agencies that accredit laboratories, state agencies that are not recognized accreditation bodies, accredited laboratories, state and Federal agencies that do not operate accreditation programs, data users, consultants, proficiency testing providers, vendors and others interested in laboratory accreditation. Any member of TNI has the right to vote to adopt standards, unlike NELAC, where only state and Federal agencies do so. All affected parties now play a larger role in the development and approval of standards for environmental testing. By means of the TNI process, standards are formulated to address concerns of environmental testing laboratories regarding multiple, and potentially conflicting, state certification requirements. However, the TNI Standards carry no regulatory authority, unless incorporated into a state’s regulations.

The proposed amendment to N.J.A.C. 7:18-1.5(d) incorporating the TNI Standards will allow the Department to continue to offer a voluntary laboratory accreditation alternative to the

New Jersey laboratory certification program. A laboratory that submits test results only to the Department may find NJ-ELAP certification sufficient. However, a laboratory that also provides data to a Federal agency or a regulatory agency in another state may be required by that agency to have NELAP certification.

Under the TNI Standards, and consistent with existing requirements of the 2003 NELAC Standards, laboratories must meet proficiency testing, on-site assessment, and documented quality system requirements. Technical and quality system requirements from the 2003 NELAC Standards, incorporated by reference in the existing rules at N.J.A.C. 7:18-1.5(d), are the same as those found in the TNI Standards. The TNI Standards differ from the NELAC Standards in structure. Specifically, TNI modules are organized according to functions and published in separate volumes (laboratory requirements, accreditation body requirements and SSAS Provider requirements), while the NELAC standards are in a single manual that contains laboratory and accreditation body requirements divided by chapter. The TNI volumes for the Environmental Laboratory sector are Volume 1-Management and Technical Requirements for Laboratories Performing Environmental Analysis, Volume 2-General Requirements for Accreditation Bodies Accrediting Environmental Laboratories, Volume 3-General Requirements for Environmental Proficiency Test Providers, and Volume 4-General Requirements for an Accreditor of Environmental Proficiency Test Providers. The volumes for the Field Sampling and Measurement sector are Volume 1-General Requirements for Field Sampling and Measurement Organizations (FSMOs) and Volume 2-General Requirements for Accreditation Bodies Accrediting Field Sampling and Measuring Organizations. The volumes for the Stationary Source Audit Sample (SSAS) Program sector are Volume 1-Module 1, General Requirements for

Stationary Source Audit Sample Providers, and Volume 1-Module 2, General Requirements for an Accreditor of Stationary Source Audit Sample Providers. The TNI Standards to be incorporated by reference are discussed below, with a comparison to the NELAC standards incorporated at existing N.J.A.C. 7:18-1.5(d).

NELAC standards, Chapter 1, Program Policy and Structure, contain the general requirements for defining the responsibilities of Federal, state and other parties, recognition, exemptions, assessor bodies, accrediting authority review board, standards development organizations, standards review, fields of accreditation and supplemental accreditation requirements. The same requirements in the TNI Standards for the Environmental Laboratory sector are in Volume 2, General Requirements for Accreditation Bodies Accrediting Environmental Laboratories; the requirements for the Field Sampling and Measurement sector are in Volume 2, General Requirements for Accreditation Bodies Accrediting Field Sampling and Measurement Organizations; and the requirements for the Stationary Source Audit Sample sector are in Volume 1-Module 3, General Requirements for Participation in the TNI Stationary Source Audit Sample Program.

NELAC standards, Chapter 2, Proficiency Testing (PT), contain the requirements for PT testing by laboratories and providers of PT samples. The TNI Standards for the PT requirements for laboratories in the Environmental Laboratory sector are in Volume 1-Module 1; for Accreditation Bodies in Volume 2-Module 2; for Proficiency Testing Providers in Volume 3; and for Proficiency Testing Oversight in Volume 4. For the Field Sampling and Measurement sector, the requirements for PTs are in Volume 2. For the Stationary Source Audit Sample sector, the requirements for PTs are throughout Volume 1, Module 1, General Requirements for

Stationary Source Audit Sample Providers, and Volume 1, Module 2, General Requirements for an Accreditor of Stationary Source Audit Sample Providers.

Performance tests, or PTs, for NELAC and TNI purposes are a means of evaluating a laboratory's performance under controlled conditions relative to a given set of criteria through analysis of unknown samples provided by external sources. Laboratory participation in the PT program fulfills one part of the quality assessment requirements of TNI. The TNI Standards set forth the major participating organizations (oversight bodies, PT sample providers, participants), components and requirements of the TNI PT program. The PT programs in which a laboratory must participate to become accredited are listed, as well as the criteria for samples, PT sample providers and acceptance limits. Accreditation bodies, laboratories and PT sample providers use the criteria set forth in the standards for the purposes of granting and/or obtaining or maintaining TNI accreditation. The PT program is intended to cover all types of Federal and state environmental analyses. Both the TNI and NELAC standards require the mandatory use of PTs that are provided and deemed acceptable by the oversight agency, and require suspension based on failed results.

NELAC Standards, Chapter 3, On-Site Assessment, contain the requirements for assessors to follow during evaluations of environmental laboratories. The frequency and types of assessments performed, procedures for assessors to follow for pre- and post-assessments, required documentation, standards for the assessment (e.g., use of checklists, standard professional conduct) and requirements for assessor training are all contained in this chapter. The same requirements in the TNI Standards for the Environmental Laboratory sector are in Volume 2-Module 3, On-Site Assessment; and the standards for the Field Sampling and

Measurement sector are in Volume 2, General Requirements for Accreditation Bodies Accrediting Field Sampling and Measurement Organizations.

Requirements for the onsite assessment of the Providers of Stationary Source Audit Samples are defined for that sector in Volume 1-Module 2, General Requirements for an Accreditor of Stationary Source Audit Sample Providers. NELAC standards, Chapter 4, Accreditation Process, contain the components, period and awarding of accreditation, maintaining accreditation, denial, suspension and revocation of accreditation, interim accreditation, due process and enforcement functions. The same requirements in the TNI Standards are defined for the Environmental Laboratory sector in Volume 2-Module 1, General Requirements for Accreditation Bodies Accrediting Environmental Laboratories, and for the Field Sampling and Measurement sector, the requirements for the accreditation process are defined in Volume 2. Requirements for the accreditation for the Providers of the Stationary Source Audit Samples are defined for that sector in Volume 1-Module 1, General Requirements for Stationary Source Audit Sample Providers, and Volume 1-Module 2, General Requirements for an Accreditor of Stationary Source Audit Sample Providers.

NELAC standards, Chapter 5, Quality Systems, contain the requirements for the quality system, which is one of the main principles of both NELAC and TNI. The same requirements in the TNI Standards for the Environmental Laboratory sector are located in Volume 1-Module 2, and for the Field Sampling and Measurement sector in Volume 1, General Requirements for Field Sampling and Measurement Organizations. This module contains the general requirements that a laboratory must follow to demonstrate that it can be recognized as competent to carry out specific environmental tests. The module defines the purpose and use of the quality system, and

defines various requirements that document and help ensure adequate data quality, including: minimum organizational structure that a laboratory shall maintain including the duties held by various personnel; components of a laboratory Quality Systems manual; requirements for the conduct of internal laboratory audits including their review process; criteria for various personnel, physical facilities, equipment and reference materials; general requirements for measurement traceability including the calibration of instruments and support equipment; standard operating procedure (SOP) development including documentation of approved methods; demonstration of method capability; data verification; sample and data labeling, handling, and tracking; and record retention and laboratory report content.

The NELAC essential quality control requirements are detailed in Appendix D of Chapter 5. The same essential laboratory quality control requirements are found for the Environmental Laboratory sector in TNI's Volume 1-Module 3 for asbestos testing, Volume 1-Module 4 for chemical testing, Volume 1-Module 5 for microbiological testing, Volume 1-Module 6 for radiological testing, and Volume 1-Module 7 for toxicological testing. The intent of the NELAC standards' chapters and the TNI volumes and modules for the Environmental Laboratory sector is to provide sufficient detail concerning essential quality control requirements so that all accreditation bodies nationwide evaluate laboratories consistently and uniformly, and so that quality assurance and quality control are addressed consistently by laboratories nationwide. The Field Sampling and Measurement and the Stationary Source Audit Sample sector volumes do not contain essential quality control requirements, but rely more on general language regarding field measurement traceability and the quality, stability and homogeneity of the stationary source audit samples provided.

NELAC standards, Chapter 6, Accrediting Authority (referred to by TNI as Accreditation Bodies), contain the general provision, applications for NELAP recognition, on-site evaluations of accreditation bodies, use of accreditation by NELAP laboratories, procedure for initiation of resolution by affected parties, appeal procedures and postings of decisions. The same requirements for the TNI Standards for the Environmental Laboratory sector are defined in Volume 2-Module 1. The requirements for Accreditation Bodies for the Field Sampling and Measurement sector are defined in Volume 2, General Requirements for Accreditation Bodies Accrediting Field Sampling and Measurement Organizations. For the Stationary Source Audit Sample sector the requirements for the accreditation of the Providers is defined in Volume 1-Module 2, General Requirements for an Accreditor of Stationary Source Audit Sample Providers.

In addition to, and as part of the incorporation by reference of the TNI Standards at N.J.A.C. 7:18-1.5(d), the Department proposes to amend the chapter to replace references to NELAC standards with references to the TNI Standards.

The Department proposes to amend N.J.A.C. 7:18-1.7, Definitions, to replace language used in the NELAC standards with that used in the TNI Standards, to reorder the definitions alphabetically, and add definitions of proposed new terms. The Department proposes new definitions of "National Environmental Field Activities Program" or "NEFAP," "Proficiency Test sample" or "PT sample" (to replace "performance evaluation sample" or "PE sample," as discussed below). "Stationary Source Audit Sample" or "SSAS," "The National Environmental Laboratory Accreditation Conference (NELAC) Institute" or "TNI," TNI Standards" (to replace "NELAC standard") and "TNI recognition" (to replace "NELAC recognition"). The Department

proposes to replace "NELAC" with "TNI," and "accrediting authority" with "accreditation body" where they occur throughout the definitions. "Accreditation body" is the term that TNI uses. The Department also proposes amendments throughout the chapter to replace the existing terms identified above with the proposed new terms. "National Environmental Field Activities Program" or "NEFAP," and "Stationary Source Audit Sample" or "SSAS," are new terms, referring to two of the components of the TNI Standards.

The Department proposes to amend the definition of "Alternate Test Procedure (ATP)," to be consistent with the use of the term by the USEPA for national approvals and by TNI for approvals that specifically meet client testing needs. The amended definition of ATP allows a laboratory to obtain certification for a laboratory-developed and/or non-standard test method, which is a method that may not be in common use in the industry. The laboratory may use the alternate test procedure, provided that both the laboratory and its client agree to its use, as provided in proposed new N.J.A.C. 7:18-2.20(a)3.

The proposed new definition of "proficiency test sample" or "PT sample" reflects an industry-wide change in terminology. The USEPA developed "PE sample" as the terminology when the USEPA prepared and provided these samples to laboratories for analysis. The USEPA no longer provides this service; "PT sample" is now the standard term. (See discussion of proposed amendments to N.J.A.C. 7:18-2.13, Proficiency testing program, below.) The Department proposes to amend the definition of "proficiency study" to refer instead to "proficiency test study" or "PT study." "PT study" is the term used when referring to evaluation of PT samples.

"Field of Accreditation" replaces the existing term and definition, "Field of Testing," and contains the terms "matrix" and "technology" rather than "program" and "method," terms that were used in the existing definition. The proposed amended definition uses terms that the TNI Standards use, particularly in TNI Standards, Volume 1, Section 3.5, "Field of Accreditation," in the Terms and Definitions. "National Environmental Laboratory Accreditation Program" or "NELAP" is proposed to be amended to remove reference to NELAC, and refer instead to the national accreditation program that uses the TNI Standards. The definition of "National Environmental Laboratory Accreditation Conference (NELAC)" is replaced with the definition of "The National Environmental Laboratory Accreditation Conference (NELAC) Institute" or "TNI."

The Department is proposing to amend N.J.A.C. 7:18-2.13, Proficiency testing program. In the past, as discussed in the Summary of the new and amended definitions at N.J.A.C. 7:18-1.7, the USEPA prepared and distributed performance evaluation (PE) samples. The USEPA no longer provides this service. Instead, the amended rule requires certified laboratories to obtain and analyze PT samples from a Department approved PT sample provider, which is a PT sample provider that is accredited by a Proficiency Test Provider Accreditor that meets the TNI requirements. There are, at present, seven such accredited PT sample providers. Providers of PT samples go through an accreditation procedure implemented by The American Association of Laboratory Accreditation (A2LA) and ACLASS. A2LA and ACLASS accredit PT sample providers through the use of ISO Guide 34:2000, ISO Guide 43:1997, ISO/IEC 17043-2010, TNI Standards Volume 3, and the EPA National Standards for Water Proficiency Testing Studies, Criteria Document 1998. A2LA and ACLASS are both recognized by the American National

Standards Institute (ANSI) as a standards development organization for proficiency requirements. Proposed amendments throughout N.J.A.C. 7:18-2.13 reflect the replacement of the USEPA conducted performance evaluations with Department approved providers of proficiency testing.

The Department proposes to amend N.J.A.C. 7:18-2.13(i)3i to change the requirement that the Department notify the laboratory in writing, by certified mail, of the announcement of each proficiency test, the final shipping date of PT samples, and the date results are to be submitted to the Department. Under the proposed amended rule, the Department will no longer provide notice of the final shipping date of the PT samples. The Department will notify the laboratory when each PT study can be obtained, the parameters required for analysis, and the date results are to be submitted to the Department. In a PT study, the PT sample provider ships the PT samples to the laboratory. The laboratory analyzes the samples and submits the results of the analysis to the provider to demonstrate laboratory performance. Under the proposed amended rule, the Department's notice to the laboratory can be by certified mail, or other means that provides a receipt of delivery. The Department will use a suitable alternative to certified mail when the alternative would be at a lower cost to the Department.

In the past the USEPA allowed a period of 15 days for ordering replacement samples. (See existing N.J.A.C. 7:18-2.13(i)3ii.) This was based on the timeframe that the USEPA established for making PE samples available. The existing rule states that laboratories shall contact the Department for issues related to the condition and shipment of the samples; however, since under the proposed rule laboratories order PT samples directly from an approved PT provider, it is unnecessary for the Department to be involved with this aspect of the procedure. If

a laboratory does not meet the deadlines or otherwise comply with the terms of the announcement notice, the laboratory's results will be considered unacceptable and the laboratory will be required to participate in another study. A laboratory whose study results are unacceptable for any reason must, under proposed new N.J.A.C. 7:18-2.13(i)3viii, investigate and take corrective action, in order to ensure that procedures are properly conducted and equipment is properly maintained. The Department has observed that laboratories do not always investigate the root cause of a failed PT study, which can result in the same error being repeated. Proposed N.J.A.C. 7:18-2.13(i)3viii requires the laboratory to maintain records of any corrective action. The corrective action implemented and the result obtained must be documented, and the documents made available to the Department upon request. This proposed amendment is consistent with the TNI Standards; moreover, the Department believes that investigating the cause of a failed PT study is vital to a laboratory's quality control program.

The Department proposes to replace N.J.A.C. 7:18-2.13(j). In the past the USEPA established the acceptance limits for all PE testing. The PT acceptance criteria are now established by the PT sample providers. The proposed amendments reflect the need to perform all PT studies in accordance with the criteria established for a given PT sample. Laboratories obtain PT samples directly from the Department approved PT sample providers, discussed above. Proposed amended N.J.A.C. 7:18-2.13(j) includes language and standards from existing N.J.A.C. 7:18-2.13(j)1iii(1) regarding a radon/radon progeny-in-air measurement proficiency program. The PT program does not, at the time of this proposal, include radon/radon progeny-in-air samples. The Department includes the radon/radon progeny-in-air provisions of the rule in the event that the PT program includes such samples in the future.

In addition to the amendments regarding TNI Standards and PT samples, the Department proposes several miscellaneous amendments. At N.J.A.C. 7:18-2.4(b), the Department proposes to correct a cross reference. The subsection directs an applicant to apply for certification to perform sample analysis and to report results for one or more parameters within one or more categories listed in N.J.A.C. 7:18-2.4(c) through (g); however, the parameters and categories are listed in N.J.A.C. 7:18-2.4(c) through (h), making a correction necessary. The Department proposes at amended N.J.A.C. 7:18-2.10(b)13 to update the address of the World Education Service.

Certification Categories and Fees

As discussed above, in addition to amendments relating to the operation of the Department's laboratory certification program, the Department proposes amendments related to the categories for which the Department certifies laboratories, set forth in N.J.A.C. 7:18-2.4, and the fees that it charges for those services, set forth in N.J.A.C. 7:18-2.9. The Department has administered a laboratory certification program since 1981. Initially, the program offered certification for approximately 350 laboratories conducting drinking water and water pollution analyses. Since then, the program has grown in both the number of participating laboratories and in the analytical areas offered for certification. The Department estimates that by the end of 2015 the program will certify approximately 850 laboratories in water, solid and hazardous waste, soil and air analyses, and sampling and field analytical methods. The enumerated certification categories reflect the variety of testing methods that environmental testing laboratories use, and the samples they analyze. Existing N.J.A.C. 7:18-2.4 and 2.9 identify 42

certification categories in programs such as the Drinking Water Program and the Water Pollution Program. N.J.A.C. 7:18-2.9 also identifies the fees associated with the categories. The Department proposes to amend the rule to increase the number of categories from 42 to 66, and to change the names of the associated programs offered for certification. The Drinking Water Program and the Water Pollution Program, for example, are identified in the proposed rules as the Drinking Water Matrix and the Non-Potable Water Matrix. The Radon/Radon Progeny-in-Air Program at existing N.J.A.C. 7:18-2.4(e) is included in the air and/or emissions matrix at proposed amended N.J.A.C. 7:18-2.4(h). Proposed amended N.J.A.C. 7:18-2.4(e) contains the certification categories that fall within the new biological tissue matrix.

As discussed above in the Summary of the proposed definition of "Field of Accreditation," TNI uses the term "matrix" rather than "program"; consequently, the Department proposes to identify various categories as falling within "matrices." In addition, amendments are proposed to update all corresponding cross-references to category names and fees throughout N.J.A.C. 7:18.

Related to the amended certification categories are proposed amendments to N.J.A.C. 7:18-2.10, Environmental laboratory personnel requirements. The personnel requirements are updated to reflect the proposed new category names and codes, as well as the proposed matrices. Also, since the new certification categories of "Parasitology and Molecular Microbiology" and "Laboratory Developed/Non-standard Methods" are proposed at amended N.J.A.C. 7:18-2.4 and 2.9, the Department proposes personnel requirements for those proposed categories at N.J.A.C. 7:18-2.10(b)1.

Each certification category in N.J.A.C. 7:18-2.4 has a corresponding fee at N.J.A.C. 7:18-2.9(b). The Department proposes to amend the fees to more accurately reflect the time and effort the Department spends performing the required certification activities. The purpose of the fee-related amendments is to fully fund the cost to administer the program. The Department has not increased fees for the laboratory certification program since 1996. Since then, the program costs have increased, while the State's revenue from fees has declined. This has created a shortfall between costs and revenue for the laboratory certification program. The current shortfall is expected to be approximately $2,000,000 in fiscal year (FY) 2015, beginning July 1, 2014, resulting from the difference between program costs of $2,813,000 and revenue of approximately $800,000.

The proposed fees are calculated based upon the staff costs and operating costs associated with the laboratory certification program, which are $2,813,000. The staff required to implement the program includes one full time employee (FTE) to manage the program, 13 full time laboratory certification officers, and one clerical/administrative FTE. The average salary for staff assigned to the laboratory certification program is $95,343. Fringe costs such as pensions, health benefits, workers' compensation, disability benefits, and the employer's share of the Federal Income Compensation Act tax, are an additional 50.75 percent of staff salary; and indirect costs such as salaries for management, fiscal and human services support are an additional 20.04 percent of staff salary. Operating costs associated with each staff member are $15,000. Operating costs include the cost of special purpose items (such as scientific, computer and office equipment), travel and technical training for laboratory certification officers, postage, telephone, vehicles, supplies, data processing, and the allocated costs of enforcement personnel and the

legal services provided by the Attorney General's office. The calculation of the Department's laboratory certification program costs for FY 2015 is below.

Staff assigned directly to the program	$95,343 x 15 staff =	$1,430,145
Plus 50.75 percent for fringe benefits	$48,387 x 15 staff =	$ 725,799
Plus 20.04 percent for indirect costs	$28,803 x 15 staff =	$ 432,051
Total for Salaries		$2,587,995
Plus operating costs	$15,000 x 15 staff =	$ 225,000
Total		$2,812,995

The proposed fees at N.J.A.C. 7:18-2.9(b) are based on the complexity of each category, which the Department evaluated based on its professional judgment and technical expertise, taking into account the time and effort needed to complete the certification activities for that category and program area. As the complexity of a category increases, the time the Department spends to offer certification in that category also increases, thereby justifying a higher fee for that category. There are occasions in which a laboratory is certified for a similar technology in more than one category. As in the existing rule, proposed amended N.J.A.C. 7:18-2.9(e) provides that the Department will charge a reduced fee to such a laboratory, rather than requiring the laboratory to pay the full fee for each category. For example, both the Drinking Water Matrix and the Non-Potable Water Matrix contain the category "analyze-immediately and continuous monitoring" (DW04 and NPW04). A laboratory that is certified in both of these categories would be eligible for the reduced fee. A reduced fee also applies under N.J.A.C. 7:18-2.9(d),

which is proposed to be amended to reflect the proposed new fees and categories and to update dates in the example scenarios. N.J.A.C. 7:18-2.9(d) provides that a fee for a certification category in which a laboratory's application for certification is pending as of July 1 will be pro-rated for the number of months remaining in the certification period, beginning with the date the certification is approved. The Department also proposes to delete stray punctuation in N.J.A.C. 7:18-2.9(d)3.

In addition to fees for each certification category, N.J.A.C. 7:18-2.9(b) identifies fees for administrative activities associated with laboratory certification. The proposed categories of administrative fees at N.J.A.C. 7:18-2.9(b) are similar to those in the existing rule; however, there are differences. One difference is that the existing Alternate Test Procedure Application Fee and Alternate Test Procedure Evaluation Fee are combined in the proposed rule as "Laboratory Developed and/or Non-Standard Methods Application and Evaluation Fee." This fee applies when a laboratory seeks certification in a method that is not commonly used in the industry. Because the method is not in common use, it does not fit within a specific certification category in the rules, for which a fee is specified at N.J.A.C. 7:18-2.9(b). Certification and use of the Laboratory Developed and/or Non-Standard Methods are governed by proposed amended N.J.A.C. 7:18-2.20.

The Department also proposes at N.J.A.C. 7:18-2.9(b) to assess a new supplemental fee to laboratories participating in the NJ-NELAP, one of the two certifications that the Department provides. The other certification, as discussed above, is the NJ-ELCP certification. Since 1998 the State of New Jersey has been recognized by NELAP as approved to accredit laboratories conducting environmental measurements in accordance with the NELAC Standard, proposed to

be replaced by the TNI standards, which are substantively the same. The standards governing NJ-NELAP certification require the Department to perform additional duties as part of the certification process that the Department does not perform to certify laboratories under NJ-ELCP. For example, NJ-NELAP certification requires an audit every two years. NJ-ELCP certification does not require a specific number of audits, but the Department audits laboratories under NJ-ELCP approximately every three to four years. To maintain NJ-NELAP certification, a laboratory must perform PT analysis every six months for each category in which the laboratory is certified, and achieve acceptable results on two of the most recent three tests. NJ-ELCP laboratories must perform and pass only one performance test per year for each category of certification. The more frequent NJ-NELAP performance testing requires the Department to evaluate a much larger volume of PT sample results for NJ-NELAP than for NJ-ELCP laboratories. Moreover, the NJ-NELAP audits take longer than NJ-ELCP audits, because the Department must review information that the standards applicable to NJ-NELAP certification require, including documentation of a laboratory's annual internal audits, annual demonstrations of capability, annual management reviews, and annual ethics training. None of this information is required of laboratories audited for NJ-ELCP certification. Based upon 16 years of experience, the Department has found that the additional duties that NJ-NELAP requires makes the costs to administer the NJ-NELAP exceed the costs for administering the NJ-ELCP. The Department spends more resources on the 250 NJ-NELAP laboratories than on the 600 NJ-ELCP laboratories. The number of staff that is needed to administer the NJ-NELAP and the amount of time needed for each of these staff exceed those needed to administer the NJ-ELCP. To account for these differences the Department is proposing to assess a NELAP Supplemental Fee of

$3,500 for each laboratory requesting NJ-NELAP accreditation. This fee is based upon the number of additional hours it takes the Department to certify a laboratory under NJ-NELAP.

The Department proposes to delete and replace existing N.J.A.C. 7:18-2.9(f). Like existing N.J.A.C. 7:18-2.9(f), proposed new N.J.A.C. 7:18-2.9(f) addresses the cost of auditing a laboratory located outside of New Jersey. As under the existing rule, the laboratory is responsible for payment of the costs associated with inspection and certification of the laboratory. The Department proposes to reduce from 60 days to 30 days the time period for payment to the Department for overnight travel, transportation, accommodation and meals, and miscellaneous expenses. Thirty days is consistent with the time period for payment of laboratory certification fees under existing N.J.A.C. 7:18-2.9(d). The proposed rule also provides for the laboratory's direct reimbursement to the Department's inspector within 30 days after the inspector provides documentation of expenses.

At proposed N.J.A.C. 7:18-2.9(b) and (f)3 the Department is proposing to assess laboratories located outside the State of New Jersey a travel assessment fee of $134.00 per hour of travel per inspector per day, up to a maximum of seven hours per day per inspector, when overnight travel is necessary. Travel time is measured from the time the inspector leaves his or her home until the time he or she arrives at either the hotel or the laboratory, whichever is first. The hours that an inspector spends traveling to and from laboratories reduce the amount of time that the inspector can spend performing other necessary tasks for the Department's laboratory certification program. The fee that the laboratory pays for certification under the existing rules does not cover travel time, but only time spent on the actual implementation of the program. In essence, the Department must absorb the cost of traveling to and from the laboratory. The most

substantial loss to the Department occurs when a laboratory is sufficiently distant from New Jersey that an overnight stay is necessary in order that the inspector can travel to and from the laboratory and also complete the inspection. Accordingly, the Department proposes to recoup a portion of the costs for such lost time from the laboratories to which the inspectors must travel. The basis for the hourly fee is discussed in the Economic Impact below.

The Department proposes to delete and replace existing N.J.A.C. 7:18-2.9(g). Proposed new N.J.A.C. 7:18-2.9(g), like existing 7:18-2.9(g), addresses payment for PT (referred to in the existing rule as "PE") samples that the Department purchases for a laboratory. The existing rule requires the laboratory to pay the Department's "actual cost paid to purchase the samples." The proposed rule requires the laboratory to pay "the actual cost that the Department incurs to purchase the PT samples." The Department intends that the laboratory will pay not only for the cost of the samples, but also the cost of delivering samples to the laboratory (either directly from the vendor or otherwise), and any other costs. Payment is due to the Department within 30 days after the date of the invoice. The existing rule allowed payment in 60 days. The shortening of the time for payment is for the same reason discussed above with regard to proposed new N.J.A.C. 7:18-2.9(f).

The Department proposes to delete existing N.J.A.C. 7:18-2.9(h) and (i), which provide exceptions to the payment of the modification fee for existing laboratories modifying their certification in order to obtain certification in sampling activities associated with the Private Well Testing Act, and the Clean Air Program. The exception for the Private Well Testing Act expired on January 18, 2004 (90 days after the operative date of the exception) (See N.J.A.C.

7:18-2.6(d)1). The exception for the Clean Air Program expired in 2004. (See N.J.A.C. 7:18-2.6(c).) Therefore, the exceptions are no longer necessary.

In order that the fees the Department collects under the laboratory certification program keep pace with the Department's costs to certify laboratories, proposed new N.J.A.C. 7:18-2.9A establishes a mechanism by which the Department will, through publication in the New Jersey Register of a notice of fee report and administrative changes, adjust the fees in the Laboratory Certification rules. The adjusted fees will be based on budget considerations where, for an upcoming State fiscal year, the Department determines a fee increase is necessary to address a calculated fee revenue shortfall between projected costs for the laboratory certification program and projected funds (including fee revenue that would be realized based on the existing fees and funds from sources other than fees, such as State appropriations or Federal grants) available to cover those costs. When a fee is increased, it will be rounded to the next whole dollar, for ease of calculation and billing. The fee report would be posted on the Department's website and would explain in greater detail the basis for the adjusted fees. The proposed new rule outlines the calculation for determining the adjusted fees, including the specific factors that will be considered in projecting costs and projecting available funds.

Social Impact

The Department anticipates that the proposed amendments to incorporate the TNI Standards will have a neutral social impact. The NELAC standards and the TNI Standards are substantively the same. Therefore, the proposed amendments replacing the NELAC standards with the TNI Standards will have no impact beyond that of the existing rules. The proposed

amendments to the PT provisions of the rules are not anticipated to have a social impact. The chapter will continue to be an essential part of the Department's efforts to protect public health and the environment.

The Department anticipates that the proposed amendments regarding fees will have a positive social impact. The proposed amendments will help the Department shift much of the costs associated with the Department's laboratory certification program to the regulated community, and cover the cost of the Department's laboratory certification program. Under the existing rules, New Jersey taxpayers bear the majority of these costs. Many of the Department's programs that protect public health and the environment depend on obtaining reliable, accurate, precise and high-quality data regarding the analysis of samples. Continued adequate funding of the Department's laboratory certification program will help to protect the public from laboratories providing inaccurate and/or false results.

Economic Impact

The Department anticipates that the proposed amendments related to substituting the NELAC standards and terms with TNI Standards and terms will have no economic impact; the TNI Standards are substantively the same as the NELAC standards.

The proposed amendments regarding PT samples will have an economic impact on the regulated community. Proficiency testing is necessary to ensure that all laboratories are producing accurate results obtained through specified standard methods. The USEPA has dropped its program and is no longer providing laboratories with these samples. The quality assurance achieved through these PT studies is vital and the standards proposed to be continued

in these amendments require a proficiency program. Therefore, laboratories will be required to obtain PT samples directly from a vendor. The PT samples can cost from $49.00 to more than $300.00, depending on the sample. Under the previous program, in which the USEPA provided PE samples, laboratories did not pay for samples.

The Department proposes at N.J.A.C. 7:18-2.13(i)3i that it need no longer use certified mail to advise a laboratory of the timeframe required for a laboratory to perform the PT study for a given matrix. According to the United States Postal Service rates at the time of this proposal, each one ounce certified mail (return receipt requested) costs $5.75. The Department will, therefore, no longer be required to incur this expense. If appropriate electronic communication is available, the Department will incur no postage cost. The cost savings will depend on the method by which it communicates with the laboratories.

The Department expects that the proposed amendments related to fees will have a modest economic impact on the regulated community on a per-company basis. The proposed amendments seek to increase fees for the Department's laboratory certification program in order to fully fund the cost to administer the program. The Department has not increased fees for the laboratory certification program since 1996. Since then, the program's costs have increased, while the State's revenue from fees has declined due to a decrease in the number of laboratories seeking certification, which has created a shortfall between costs and revenue for the Department's laboratory certification program. In FY 2015 the Department's laboratory certification program expects to collect approximately $800,000 in fees, while the program cost is expected to total approximately $2,813,000 (approximately $2,588,000 in salaries, benefits,

and indirect costs and $225,000 in operating funds). This will result in a shortfall of approximately $2 million for FY 2015.

Despite rising program costs, the Department has chosen to maintain fees without an increase for more than 18 years by relying on general fund appropriations to cover shortfalls. The Department has worked to keep cost as low as possible by keeping the number of staff needed to administer the program at a minimum; keeping the time spent on on-site audits at a minimum; performing routine audits of NJ-ELCP laboratories conducting environmental analyses every three or four years, instead of biennially as with NJ-NELAP laboratories; and by increasing efficiencies where possible. Despite these measures, cost increases have been inevitable due to general inflation and an increase in overall program cost. The proposed amendments are intended to eliminate the current program deficit and reduce the likelihood of future shortfalls, thereby reducing reliance on general fund appropriations.

As discussed above in the Summary of proposed amendments to N.J.A.C. 7:18-2.9, the Department requires 15 FTEs to implement the laboratory certification program. Based on the total program cost of $2,813,000, it costs $187,533 per employee to administer the program. The Department estimates that each employee averages slightly less than 1,400 hours per year performing laboratory certification fee-funded services. Accordingly, the average hourly cost per employee is $187,533 divided by 1,400 hours, or approximately $134.00 per hour. In order that the revenue from fees is sufficient to cover the costs of administering the laboratory certification program, fees must be increased. The proposed fees, the number of laboratories expected to be certified in each of the proposed categories, the revenue estimate from fees, and the number of Department employees needed for each activity are shown below. As of the date

of this proposal, there are no laboratories certified in the categories marked with an asterisk; however, the proposed amendments to the categories will likely result in laboratories' applying to be certified in those categories in the future.

Administrative Activity	Proposed Fee	Laboratories	Total Fees	Required Department Employees
Initial application fee	$900	20	$18,000	0.07
Renewal application fee	$600	850	$510,000	2.83
Request for modification in certified, applied or interim approval status	$400	60	$24,000	0.20
NJ-NELAP supplemental fee	$3,500	150	$525,000	0.50
Travel assessment fee (per hour, per person)	$134	1,260 hours	$168,840	0.33
Laboratory developed and/or non-standard methods application and evaluation fee	$600	10	$6,000	0.03

Category Code and Description	New Fee	Laboratories	Total Fees	Department FTEs
AE01 - Inorganics - Non-Metals Analysis	$370	28	$10,360	0.09
AE02 - Inorganics - Metals Analysis	$540	17	$9,180	0.06

Category Code and Description	**New Fee**	**Laboratories**	**Total Fees**	**Department FTEs**
AE03 - Asbestos Analysis	$540	8	$4,320	0.03
AE04 - Organics Analysis	$840	45	$37,800	0.15
AE05 - Radionuclides Analysis	$840	0*	$0	0.00
AE06 - Air - Laboratory Developed and/or Non-Standard Methods	$1,675	0*	$0	0.00
AE07 - Air Sample Collection	$370	0*	$0	0.00
AE08 - Radon in Air	$370	12	$4,440	0.04
AE09 - Radon in Air - Laboratory Developed and/or Non-Standard Methods	$1,675	0*	$0	0.00
CLP01 - NPW - Multi-Concentration Inorganics	$540	4	$2,160	0.01
CLP02 - NPW - Multi-Concentration Organics	$840	5	$4,200	0.02
CLP03 - NPW – Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans	$840	0*	$0	0.00
CLP04 - SCM - Multi-Concentration Inorganics	$540	4	$2,160	0.01
CLP05 - SCM - Multi-Concentration Organics	$840	5	$4,200	0.02

Category Code and Description	**New Fee**	**Laboratories**	**Total Fees**	**Department FTEs**
CLP06 - SCM – Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans	$840	0*	$0	0.00
DW01 - Microbiology	$540	102	$55,080	0.34
DW02 - Parasitology and Molecular Microbiology	$1,675	6	$10,050	0.02
DW03 - Inorganic Parameters	$540	100	$54,000	0.33
DW04 - Analyze-Immediately and Continuous Monitoring	$235	136	$31,960	0.45
DW05 - Asbestos Analysis	$540	6	$3,240	0.02
DW06 - Metals	$540	50	$27,000	0.17
DW07 - Metals – ICP, ICP/MS and DCP	$840	50	$42,000	0.17
DW08 - Organic Parameters – Chromatography	$840	54	$45,360	0.18
DW09 - Organic Parameters – Chromatography/MS	$840	83	$69,720	0.28
DW10 - Radiochemistry – Radioactivity and Radionuclides	$840	21	$17,640	0.07
DW11- Radon in Drinking Water	$370	11	$4,070	0.04
DW12 - Drinking Water Sample Collection	$235	40	$9,400	0.13

Category Code and Description	**New Fee**	**Laboratories**	**Total Fees**	**Department FTEs**
DW13 - Drinking Water – Laboratory Developed and/or Non-Standard Methods	$1,675	0*	$0	0.00
SCM01 - Microbiology	$540	15	$8,100	0.05
SCM02 - Characteristics of Hazardous Waste and Physical Analyses	$235	89	$20,915	0.30
SCM03 - Inorganic Parameters and Preparation	$540	110	$59,400	0.37
SCM04 - Asbestos Analysis	$540	9	$4,860	0.03
SCM05 - Metals – SCM Preparation Methods	$235	100	$23,500	0.33
SCM06 - Metals	$540	100	$54,000	0.33
SCM07 - Metals – ICP, ICP/MS and DCP	$840	100	$84,000	0.33
SCM08 - Organics – SCM Preparation and Screening Methods	$370	100	$37,000	0.33
SCM09 - Organic Parameters – Chromatography	$840	96	$80,640	0.32
SCM10 - Organic Parameters – Chromatography/MS	$840	105	$88,200	0.35
SCM11 - Polychlorinated Dibenzo-p-dioxins	$840	13	$10,920	0.04

Category Code and Description	**New Fee**	**Laboratories**	**Total Fees**	**Department FTEs**
and Polychlorinated Dibenzofurans				
SCM12 - Radiochemistry – Radioactivity and Radionuclides	$840	10	$8,400	0.03
SCM13 - SCM Sample Collection	$235	0*	$0	0.00
SCM14 - SCM - Laboratory Developed and/or Non-Standard Methods	$1,675	0*	$0	0.00
NPW01 - Microbiology	$540	114	$61,560	0.38
NPW02 - Parasitology and Molecular Microbiology	$1,675	0*	$0	0.00
NPW03 - Inorganic Parameters	$540	325	$175,500	1.08
NPW04 - Analyze-Immediately and Continuous Monitoring	$235	694	$163,090	2.31
NPW05 - Asbestos Analysis	$540	1	$540	0.00
NPW06 - Metals – NPW Preparation Methods	$235	70	$16,450	0.23
NPW07 - Metals	$540	100	$54,000	0.33
NPW08 - Metals – ICP, ICP/MS and DCP	$840	100	$84,000	0.33
NPW09 - Organics – NPW Preparation Methods	$235	80	$18,800	0.27

Category Code and Description	**New Fee**	**Laboratories**	**Total Fees**	**Department FTEs**
NPW10 - Organic Parameters – Chromatography	$840	67	$56,280	0.22
NPW11 - Organic Parameters – Chromatography/MS	$840	83	$69,720	0.28
NPW12 - Toxicity Testing	$1,675	8	$13,400	0.03
NPW13 - Radiochemistry – Radioactivity and Radionuclides	$840	15	$12,600	0.05
NPW14 - Radon in Non-Potable Water	$370	5	$1,850	0.02
NPW15 - Non-Potable Water Sample Collection	$235	0*	$0	0.00
NPW16 - NPW – Laboratory Developed and/or Non-Standard Methods	$1,675	0*	$0	0.00
BT01 - Inorganic Parameters	$540	2	$1,080	0.01
BT02 - Metals – BT Preparation Methods	$235	2	$470	0.01
BT03 - Metals	$540	2	$1,080	0.01
BT04 - Metals – ICP, ICP/MS and DCP	$840	2	$1,680	0.01
BT05 - Organics – BT Preparation Methods	$235	2	$470	0.01
BT06 - Organic Parameters – Chromatography	$840	1	$840	0.00

Category Code and Description	**New Fee**	**Laboratories**	**Total Fees**	**Department FTEs**
BT07 - Organic Parameters – Chromatography/MS	$840	10	$8,400	0.03
BT08 - BT – Laboratory Developed and/or Non-Standard Methods	$1,675	0*	$0	0.00
Total revenue including administrative fees:			$2,921,925	
Minus Similar Technology Discount Groups:			-$69,141	
Total Revenue Generated From Proposed Fees:			$2,852,784	15.0 FTEs

The Department regulates approximately 850 laboratories through the laboratory certification program. Based on the above analyses, the Department estimates that the proposed fee-related amendments will result in an increased cost to the regulated community of $2 million (total revenue of approximately $2,800,000, as shown above, minus total revenue from existing fees of approximately $800,000). The fee per laboratory depends on the categories in which the laboratory holds certification. Using the $800,000 currently collected in fees from 850 certified laboratories, the current average cost per laboratory is $940.00. Based on the proposed fees, the average cost per laboratory will be approximately $3,300. The average cost per laboratory will therefore increase by approximately $2,360. However, the actual increase for many laboratories will be much smaller since the proposed fees will be proportional to the number and types of certifications requested. As a result, approximately half the laboratories currently in the program

will pay fees below the average fee of $3,300. For example, for a laboratory that is certified in a single category such as NPW04 Non-Potable Water Program-Analyze Immediately and Continuous Monitoring for one parameter, the Administrative Renewal Fee would increase from $295.00 to $600.00 and the Category Fee would increase from $118.00 to $235.00. The current fee for the laboratory would be $413.00, and the fee under the proposed amended rules would be $835.00, an increase of $422.00.

For an NJ-ELCP laboratory that is certified for all 16 Non-Potable Water Program categories, the annual fee would increase from $4,333 to $10,059 (including the Administrative Renewal Fee). The annual fee for an NJ-NELAP laboratory for those same categories would increase from $4,333 to $13,559 (including the Administrative Renewal Fee and the NELAP Supplemental Fee). Given the above and the proposed amended fees, the range of fees for a laboratory analyzing Non-Potable Water Samples would increase from $413.00 to $4,333 under the existing rules to a new range of $835.00 to $13,559. (These ranges represent the total fees assessed annually to a laboratory maintaining its existing certification.)

The proposed amendments to the fees are designed to minimize impacts on smaller laboratories, which are those that are certified in only one or two technologies within a single category. Proposed fees are lower for categories that require fewer hours for the Department to certify. In addition, when a laboratory holds certifications for similar technologies in more than one program area, the rules continue to provide for a reduction in fees. The higher fees, and larger fee increases, will be assessed on the proportionately larger laboratories; the Department anticipates that these laboratories will be able to absorb the increases.

The Department has compared the range of the proposed fees to that assessed by other states' laboratory certification programs, as set forth below.

State	Minimum Fee	Maximum Fee
Alaska #	$ 780	$ 20,000
ARIZONA*	$ 510	$ 20,000
Arkansas	$ 500	$ 1300
California	$ 1460	$ 13,560
Colorado	$ 300	$ 4900
Connecticut	$ 625	$ 625
FLORIDA*	$ 500	$ 12,000
Idaho #	$ 100	$ 7200
ILLINOIS*	$ 2500	$ 8400
Indiana #	$ 1500	$ 1500
Iowa	$ 400	$ 15,500
Kansas	$ 500	$ 11,000
Kentucky	$ 250	$ 6000
Louisiana	$ 600	$ 4000
Maine	$ 1225	$ 3000
Maryland #	$ 400	$ 1000
Massachusetts	$ 1700	$ 7500
Michigan	$ 2580	$ 6800

State	Minimum Fee	Maximum Fee
MINNESOTA*	$ 800	$ 20,000
Missouri #	$ 500	$ 3900
Montana #	$ 850	$ 2600
Nebraska #	$ 100	$ 850
NEVADA*	$ 725	$ 26,300
New Hampshire	$ 200	$ 2000
NEW JERSEY	**$835**	**$21,300**
NEW YORK*	$ 550	$ 100,000+
North Carolina	$ 2700	$ 7000
Oklahoma	$ 1610	$ 3490
OREGON*	$ 1375	$ 3300
PENNSYLVANIA*	$ 1000	$26,500
Rhode Island	$ 370	$740
South Carolina	$ 125	$ 8000
South Dakota #	$ 500	$ 1500
Tennessee #	$ 1500	$ 5500
TEXAS*	$ 605	$ 21,450
UTAH*	$710	$13,800
Vermont #	$ 500	$ 2000
Virginia	$ 1150	$ 2600

State	Minimum Fee	Maximum Fee
Washington	$ 300	$ 3000
West Virginia	$ 600	$ 12,000
Wisconsin	$ 1900	$ 3700

The states noted with an asterisk and upper case lettering above have programs similar in scope to the Department's laboratory certification program, while the states noted with a pound sign offer certification only within the drinking water matrix. Nationwide, state programs range widely in scope from states that certify laboratories in only one program area, such as Alaska that is limited to drinking water, to states that certify laboratories for the full range of environmental regulatory programs, such as Pennsylvania. These full programs are more similar to the Department's laboratory certification program and their fees are offered for comparison. The fees assessed by these states range from a minimum of $500.00 to a maximum fee of $100,000 or more. The average fee assessed by these states ranges from a minimum of $919.00 to a maximum of $24,823. Overall, as shown below, the Department's proposed fees fall in the middle of the maximum fee ranges of programs similar to the Department's laboratory certification program. The proposed fees do fall towards the higher end of the minimum fee range; however, this can be attributed to a lower cost of living in the other comparison states.

State	Minimum Fee	State	Maximum Fee
Florida	$ 500	New York	$100,000 +
Arizona	$ 510	Pennsylvania	$ 26,500

State	Minimum Fee	State	Maximum Fee
New York	$ 550	Nevada	$ 26,300
Texas	$ 605	Texas	$ 21,450
Utah	$ 710	**NEW JERSEY**	**$ 21,300**
Nevada	$ 725	Minnesota	$ 20,000
Minnesota	$ 800	Arizona	$ 20,000
NEW JERSEY	**$ 835**	Utah	$ 13,800
Pennsylvania	$ 1,000	Florida	$ 12,000
Oregon	$ 1,375	Illinois	$ 8,400
Illinois	$ 2,500	Oregon	$ 3,300

The Department expects that a laboratory participating in either the NJ-ELCP or NJ-NELAP programs will pay fees proportionate to the range and complexity of tests for which it holds certification. Increasing the number of fee categories to reflect the actual analytical activities analyzed by a laboratory certified to conduct environmental analyses better reflects the time and effort required by the program to offer certification in a category to laboratories. It also helps laboratories to be cost effective since they will be responsible for submitting a fee for only those categories for which they wish to be certified. Therefore, the overall economic impact of the proposed fee structure on a participating laboratory will depend on the categories in which the laboratory is certified.

Other costs to a laboratory to participate in either program will be unaffected by the proposed amendments. For instance, to apply for certification a laboratory must prepare an

application and submit it to the Department. The application includes basic information to identify the applicant, its principals and its key employees and their qualifications. Accordingly, the laboratory should be able to complete the application without assistance from consultants or other professionals, and the cost should remain nominal. With regard to other costs associated with meeting certification requirements, costs are incurred in several areas including equipment, personnel, sample handling and preservation, record keeping and quality assurance. None of these are affected by the proposed amendments to the rules. The costs associated with certification are normally only a small part of a laboratory' activities. For example, each laboratory conducting environmental analyses requires equipment, instruments and materials to perform analyses for other organizations or the public. The equipment, instruments and materials needed are primarily a function of the analytical methods that the laboratory is using. The analytical methods appropriate for analysis of radon, for example, differ from those appropriate for analysis of drinking water. Laboratories will need equipment, instruments and materials, whether or not they seek to become certified under this chapter.

The Department anticipates that the proposed travel assessment fee of $134.00 per hour of travel (see proposed N.J.A.C. 7:18-2.9(f)3) will have an economic impact on laboratories located outside the State. The hourly fee is per inspector, per hour of travel, for up to seven hours of travel per inspector per day. The Department estimates, based on its experience sending its employees to accredit or certify laboratories located outside the State, that the amount assessed will likely be between $134.00 and $6,000. The highest costs are those associated with cross-country travel that requires a full team of up to four inspectors for a complex full service laboratory facility. The laboratories that will be assessed the higher costs are large full service

laboratories that seek to be certified (or maintain certification) in multiple technologies throughout several different matrices.

Environmental Impact

The Department does not anticipate that the proposed amendments will have an environmental impact. The proposed amendments do not materially alter the standards to be applied to laboratory certification, inasmuch as the proposed TNI Standards are substantively the same as the existing NELAC standards, and otherwise relate only to proficiency testing and the cost and categories of certification.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. require that administrative agencies that adopt, readopt, or amend State regulations that exceed any Federal standards or requirements include in the rulemaking document a comparison with Federal law. Although the chapter does incorporate regulations promulgated by the USEPA, the proposed amendments are not promulgated under the authority of or in order to implement, comply with or participate in any program established under Federal Law, or under a State statute that incorporates or refers to a Federal Law, Federal Standards or Federal requirements. The Federal government does not administer a corresponding program, and has no standards or requirements for laboratory certification. Accordingly, the proposed amendments do not exceed Federal standards or requirements. Accordingly, further analysis is not required.

Jobs Impact

The Department anticipates that the proposed amendments, which relate to standards and fees for laboratory certification and accreditation, and performance testing, will not have an impact upon either the creation or loss of jobs in this State.

Agricultural Industry Impact

The Department anticipates that the proposed amendments, which relate to standards and fees for laboratory certification and accreditation, and performance testing, will not have an impact upon agriculture in New Jersey.

Regulatory Flexibility Analysis

These rules affect approximately 850 laboratories that operate certified environmental laboratories or laboratories that are seeking certification pursuant to N.J.A.C. 7:18 or accreditation pursuant to the TNI Standards. Approximately 600 of these laboratories are "small businesses" as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The proposed amendments incorporating the TNI Standards by reference and amending the PT requirements and fees impose no new compliance, reporting or recordkeeping requirements on small businesses, with one exception. The proposed amendment to N.J.A.C. 7:18-2.10(i)3viii requires a laboratory to maintain records related to corrective action taken in response to a failed PT study. The Department does not anticipate that proposed requirement will impose a cost on laboratories, since most already maintain records of such actions in the ordinary course of their business.

As discussed in the Economic Impact above, professional services are not expected to be necessary in order for laboratories to comply with the proposed rules. The anticipated costs that laboratories will incur as a result of the proposed rules are described in the Economic Impact, above. The proposed rules relating to fees were designed to minimize adverse economic impacts on all affected laboratories, particularly small businesses, while continuing to meet the need for accurate, precise and reliable data. It is not feasible for the Department to make further accommodation to small businesses, because to do so would impair the ability of the Department to ensure that all laboratories, including small businesses, are operating in a manner that ensures the accuracy of results.

Housing Affordability Impact Analysis

Pursuant to N.J.S.A. 52:14B-4b, the Department has evaluated the proposed amendments to determine their impact, if any, on the affordability of housing. The Department has determined that the proposed amendments will have no impact because it is extremely unlikely that the rules will evoke a change in the average costs associated with housing. The proposed amendments relate to standards and fees for laboratory certification and accreditation, and performance testing, which have little or no impact on housing or its affordability.

Smart Growth Development Impact Analysis

Pursuant to N.J.S.A. 52:14B-4b, the Department has evaluated the proposed amendments and determined that it is extremely unlikely that the rules will evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments relate to standards and fees

for laboratory certification and accreditation, and performance testing, which do not relate directly to housing production in the State; accordingly, the Department anticipates that the proposed amendments will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers.

Full Text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1 GENERAL PROVISIONS

7:18-1.4 Certification Program Requirements

(a) A laboratory may request certification in the New Jersey Environmental Laboratory Certification Program (NJ-ELCP) pursuant to N.J.A.C. 7:18 or **accreditation** in the New Jersey National Environmental Laboratory Accreditation Program (NJ-NELAP) pursuant to the [National Environmental Laboratory Accreditation Conference (NELAC) standards] **TNI Standards**, incorporated herein by reference at N.J.A.C. 7:18-1.5(d)

1. A laboratory shall not apply for or maintain simultaneous certification in the NJ-ELCP and [NJ-NELAC] **NJ-NELAP.**
2. A laboratory [which] **that** has obtained NJ-NELAP [certification] **accreditation pursuant to the TNI Standards** shall comply with all sampling, enforcement and data submittal requirements as established by N.J.A.C. 7:18 pursuant to the statutes specified at N.J.A.C. 7:18-1.1(c).

(b) – (e) (No change.)

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7:18-1.5 Incorporation by Reference

(a)-(c) (No change.)

(d) The [National Environmental Laboratory Accreditation Conference (NELAC)] **TNI** Standards [(EPA600/R-99/068), Chapters 1 through 5, July 1, 1999], together with amendments and supplements thereto, are incorporated by reference into this chapter. Copies of the [NELAC standards]**TNI Standards** are available on the [NELAC internet site at http://www.epa.gov/ttn/nelac. Copies of the NELAC standards may also be purchased from the USEPA, Office of Research and Development, 3210 Triangle Park, NC 27711, (919)541-1120] **TNI website at www.nelac-institute.org or from TNI at P.O. Box 2439 Weatherford, TX 76086, Telephone: (817) 598-1624.**

7:18-1.6 Program Information; Notices; Submittals

(a) Unless otherwise specified, any questions concerning the requirements of this chapter should be directed to the Department's Office of Quality Assurance at (609) 292-3950. Written inquiries can be directed to the following address or the most recent address as noted on the Department's website:

New Jersey Department of Environmental Protection

Office of Quality Assurance

P.O. Box [424] **420, Mail Code 401-02D**

Trenton, New Jersey 08625-[0424]**0420**

(b) Unless otherwise specified, any submittals of [PE] **PT** sample results, submittals of documents, notices or other communications required to be made to the Department

under this chapter shall be made to the address specified in (a) above. Applications for certification and for renewals and modifications of certifications shall be submitted to the address specified in (a) above.

7:18-1.7 Definitions

The following words and terms, when used in this chapter, shall have the following meanings. If a definition in this section differs from the corresponding definition in any regulation or other document incorporated by reference under N.J.A.C. 7:18-1.5, the definition in the document incorporated by reference shall control.

…

[Accrediting authority] "**Accreditation body**" means the agency or department designated at the territory, state or Federal levels as the recognized authority with responsibility for granting [NELAC] **TNI** accreditation for a specified field of testing.

…

"Alternate Test Procedure (ATP)" means a procedure that:

1. [Contains modifications not permitted in a method listed as a DSAM;] **Is a modification of an approved reference method or a procedure that uses the same determinative technique (for example, the physical and/or chemical process used to determine the identity and concentration of an analyte) and measures the same analyte(s) of interest as the approved reference method. The use of a different determinative technique to measure the same analyte(s) of interest as an approved reference method is considered a new method;** or
2. (No change.)

…

"Authorized proficiency program" or "APP" means the USEPA Radon/Radon Progeny Measurement Proficiency Program, Eastern Environmental Radiation Facility, Montgomery, Alabama 36109, or other program authorized by the Department in writing as being equally stringent. The APP provides the Department with a laboratory's radon/radon progeny results of [PE] **PT** samples. The Department uses the laboratory's results and the expected acceptable limits to partially assess its analytical performance. Pursuant to N.J.A.C. 7:18-2.13, successful analysis of radon/radon progeny [PE] **PT** samples is necessary for obtaining and maintaining radon/radon progeny-in-air certification.

…

"CERCLA (CLP) Program" or "Contract Laboratory Program" means the USEPA contract program for the procurement of analytical data in support of its CERCLA program and the [seven] **six** Categories for which a laboratory may obtain certification from the Department for its CERCLA programs.

…

"Confluent growth" means a bacterial growth that covers the entire filtration area of the filter with no discrete colonies when performing microbiological analysis by the membrane-filter techniques listed in Categories [DW1, WP1 and SHW1] **DW01, NPW01 and SCM01.** When confluent growth occurs, another sample must be obtained and analyzed using higher dilutions for the membrane-filter technique or using another approved technique.

…

"Field of [Testing] **Accreditation**" means [NELAC's] **TNI's** approach to accrediting laboratories by [program, method] **matrix, technology** and analyte. Laboratories requesting accreditation for a [program-method] **matrix-technology**-analyte combination or for an up-dated/improved method are required to submit only that portion of the accreditation process not previously addressed.

…

"National Environmental Field Activities Program" or "NEFAP" means the overall National Environmental Field Activities Program that is part of the TNI Standards.

["National Environmental Laboratory Accreditation Conference (NELAC)" means a voluntary organization of State and Federal environmental officials and interest groups purposed primarily to establish mutually acceptable standards for accrediting environmental laboratories."]

"National Environmental Laboratory Accreditation Program [(NELAP)]" **or "NELAP"** means the overall National Environmental Laboratory Accreditation Program [of which NELAC is a part] **that uses the TNI Standards to grant laboratories national accreditation status.**

…

["NELAC recognition" means the determination by the NELAP Director that an accrediting authority meets the requirements of the NELAP and is authorized to grant NELAP accreditation to laboratories.]

["NELAC standards" means the plan of procedures for consistently evaluating and documenting the ability of laboratories performing environmental measurements to meet nationally defined standards established by the National Environmental Laboratory Accreditation Conference.]

…

["Performance evaluation sample" or "PE sample" means a sample containing a known concentration of one or more specific parameters, used to evaluate the analytical performance of a laboratory. These materials may be provided by the USEPA, the Department, or other Department approved programs.]

…

[“Primary accrediting authority” means the agency or department designated at the territory, state or Federal levels as the recognized authority with responsibility for granting NELAC accreditation for a specified field of testing.]

…

“Proficiency test sample” or “PT sample” means a sample containing a known concentration of one or more specific parameters, used to evaluate the analytical performance of a laboratory.

“Proficiency **test** study” **or “PT study”** means an organized program in which laboratories participate in the analysis of [PE] **PT** sample aliquots from homogeneous sample batches. The [PE] **PT** samples contain one or more parameters monitored under a regulatory program, for example, the Drinking Water Program. Data from the study are analyzed statistically[, so that the acceptability of individual laboratory results are based on the performance of participating laboratories.] **against a given set of acceptance criteria, to evaluate whether a laboratory’s PT data are acceptable or unacceptable.**

…

"Reciprocal" means the mutual agreement of two or more states to accept each other's findings regarding the ability of environmental testing laboratories in meeting [NELAC standards] **TNI Standards**.

"Recognition" means the determination that an [accrediting authority] **accreditation body** meets the requirements of the NELAP and is authorized to grant NELAP accreditation to laboratories.

…

"Regulatory sample" means either of the following:

1. (No change.)
2. A [proficiency evaluation (PE)] **proficiency test (PT)** sample.

…

"Stationary Source Audit Sample" or "SSAS" means a blind sample, the composition of which is unknown to the Stationary Source Tester and Laboratory, and that is provided to evaluate whether, during a particular test event, the Stationary Source Tester and/or Laboratory can produce measurement results within specified acceptance criteria. Audit samples are not analyzed on a regular schedule, but they are analyzed only during the particular event (e.g., a compliance test) that is being audited. Audit samples are analyzed, or collected and analyzed, as part of the batch of field test samples using the same personnel, procedures, and materials.

…

"The National Environmental Laboratory Accreditation Conference (NELAC) Institute" or "TNI" means a voluntary organization of state and Federal environmental

officials and members purposed primarily to establish mutually acceptable standards for accrediting environmental laboratories and field activity facilities.

…

"TNI recognition" means the determination that an accreditation body meets the requirements of the TNI Standards and is authorized to grant TNI accreditation to laboratories and field activity facilities performing environmental measurements.

"**TNI Standards" means the plan of procedures developed by TNI for consistently evaluating and documenting the ability of laboratories and field activity facilities performing environmental measurements, to meet nationally defined standards.**

…

SUBCHAPTER 2 PROGRAM PROCEDURES AND REQUIREMENTS

7:18-2.4 Categories for certification

(a) (No change.)

(b) An applicant shall apply for certification to perform sample analysis and to report results for one or more parameters within one or more categories listed in (c) through [(g)]**(h)** below.

(c) The parameters for which a laboratory may be certified to perform sample analysis [and to report results for purposes of determining compliance with the Drinking Water Program] **in the drinking water matrix** are organized within the following categories:

[1. Category SDW01: Microbiological Parameters;

2. Category SDW02: Inorganic Parameters, Including Sodium & Calcium;

3. Category SDW03: Analyze-Immediately Parameters, Including sampling under the PWTA;
4. Category SDW04: Inorganic Parameters, Metals;
5. Category SDW05: Organic Parameters, Chromatography;
6. Category SDW06: Organic Parameters, Chromatography/Mass Spectrometry;
7. Category SDW07: Radiochemistry: Radioactivity & Radionuclide Parameters;
8. Category SDW08: Radon in Drinking Water.]

1. **Category DW01: Microbiology;**
2. **Category DW02: Parasitology and Molecular Microbiology;**
3. **Category DW03: Inorganic Parameters;**
4. **Category DW04: Analyze-Immediately and Continuous Monitoring;**
5. **Category DW05: Asbestos Analysis;**
6. **Category DW06: Metals;**
7. **Category DW07: Metals – ICP, ICP/MS and DCP;**
8. **Category DW08: Organic Parameters - Chromatography;**
9. **Category DW09: Organic Parameters – Chromatography/MS;**
10. **Category DW10: Radiochemistry – Radioactivity and Radionuclides;**
11. **Category DW11: Radon in Drinking Water;**
12. **Category DW12: Drinking Water Sample Collection; and**
13. **Category DW13: Drinking Water – Laboratory Developed and/or Non-Standard Methods.**

(d) The parameters for which a laboratory may be certified to perform sample analysis [and to report results for purposes of determining compliance with the Water Pollution Program] **in the non-potable water matrix** are organized within the following categories:

[1. Category WPP01: Microbiological Parameters;

2. Category WPP02: Inorganic Parameters, Nutrients & Demand;

3. Category WPP03: Analyze-Immediately Parameters;

4. Category WPP04: Inorganic Parameters, Metals;

5. Category WPP05: Organic Parameters, Chromatography;

6. Category WPP06: Organic Parameters, Chromatography/Mass Spectrometry;

7. Category WPP07: Individual Pesticides (GC, GC/MS, TLC);

8. Category WPP08: Toxicity Testing;

9. Category WPP09: Radiochemistry: Radioactivity & Radionuclide Parameters;

10. Category WPP010: Radon in Wastewater.]

1. Category NPW01: Microbiology;

2. Category NPW02: Parasitology and Molecular Microbiology;

3. Category NPW03: Inorganic Parameters;

4. Category NPW04: Analyze-Immediately and Continuous Monitoring;

5. Category NPW05: Asbestos Analysis;

6. Category NPW06: Metals – NPW Preparation Methods;

7. Category NPW07: Metals;

8. **Category NPW08: Metals – ICP, ICP/MS and DCP;**
9. **Category NPW09: Organics – NPW Preparation and Screening;**
10. **Category NPW10: Organic Parameters – Chromatography;**
11. **Category NPW11: Organic Parameters – Chromatography/MS;**
12. **Category NPW12: Toxicity Testing;**
13. **Category NPW13: Radiochemistry – Radioactivity and Radionuclides;**
14. **Category NPW14: Radon in Non-Potable Water;**
15. **Category NPW15: Non-Potable Water Sample Collection; and**
16. **Category NPW16: NPW – Laboratory Developed and/or Non-Standard Methods.**

(e) The parameters for which a laboratory may be certified to perform sample analysis [and to report results for purposes of determining compliance with the Radon/Radon Progeny-in-Air Program] **in the biological tissue matrix** are organized within the following categories:

[1. Category RAP01: Radon/Radon Progeny-in-Air.]

1. **Category BT01: Inorganic Parameters;**
2. **Category BT02: Metals – BT Preparation Methods;**
3. **Category BT03: Metals;**
4. **Category BT04: Metals – ICP, ICP/MS and DCP;**
5. **Category BT05: Organics – BT Preparation Methods;**
6. **Category BT06: Organic Parameters – Chromatography;**

7. Category BT07: Organic Parameters – Chromatography/MS; and

8. Category BT08: BT – Laboratory Developed and/or Non-Standard Methods.

(f) The parameters for which a laboratory may be certified to perform sample analysis [and to report results for purposes of determining compliance with the Solid/Hazardous Waste Program] **in the solid and chemical materials matrix** are organized within the following categories:

[1. Category SHW01: Microbiological Parameters;

2. Category SHW02: Characteristics of Hazardous Waste;

3. Category SHW03: Analyze-Immediately Parameters;

4. Category SHW04: Inorganic Parameters;

5. Category SHW05: Organic Parameters, Preparation & Screening;

6. Category SHW06: Organic Parameters, Chromatography;

7. Category SHW07: Organic Parameters, Chromatography/Mass Spectrometry;

8. Category SHW08: Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans;

9. Category SHW09: Miscellaneous Parameters;

10. Category SHW10: Facility-Specific Parameters;

11. Category SHW11: Incinerator Emissions;

12. Category SHW12: Immunoassay.]

1. Category SCM01: Microbiology;

2. **Category SCM02: Characteristics of Hazardous Waste and Physical Analyses;**

3. **Category SCM03: Inorganic Parameters and Preparation;**
4. **Category SCM04: Asbestos Analysis;**
5. **Category SCM05: Metals – SCM Preparation Methods;**
6. **Category SCM06: Metals;**
7. **Category SCM07: Metals – ICP, ICP/MS and DCP;**
8. **Category SCM08: Organics – SCM Preparation and Screening Methods;**

9. **Category SCM09: Organic Parameters – Chromatography;**
10. **Category SCM10: Organic Parameters – Chromatography/MS;**
11. **Category SCM11: Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans;**

12. **Category SCM12: Radiochemistry – Radioactivity and Radionuclides;**
13. **Category SCM13: SCM Sample Collection; and**
14. **Category SCM14: SCM - Laboratory Developed and/or Non-Standard Methods.**

(g) The parameters for which a laboratory may be certified to perform sample analysis and to report results for purposes of determining compliance with the CERCLA(CLP) Program are organized within the following categories:

[1. Category CLP01: Multi-Media, Multi-Concentration Inorganic Parameters;

2. Category CLP02: Multi-Media, Multi-Concentration Organic Parameters;

3. Category CLP03: Polychlorinated Dibenzo-p-dioxins & Polychlorinated Dibenzofurans;

4. Category CLP04: Multi-Media, High Concentration, Inorganic Parameters;

5. Category CLP05: Multi-Media, High Concentration, Organic Parameters;

6. Category CLP06: Low Concentration Water for Inorganic Parameters; and

7. Category CLP07: Low Concentration Water for Organic Parameters.]

1. Category CLP01: NPW - Multi-Concentration Inorganics;

2. Category CLP02: NPW - Multi-Concentration Organics;

3. Category CLP03: NPW – Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans;

4. Category CLP04: SCM - Multi-Concentration Inorganics;

5. Category CLP05: SCM - Multi-Concentration Organics; and

6. Category CLP06: SCM – Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans.

(h) The parameters for which a laboratory may be certified to perform sample analysis **[**and to report results for the purposes of determining compliance with the Clean Air

Program] **in the air and/or emissions matrix** are organized within the following categories:

[1. Category CAP01: Atmospheric Inorganic Parameters, Non-Metals;

2. Category CAP02: Atmospheric Inorganic Parameters, Metals;

3. Category CAP03: Atmospheric Organic Parameters; and

4. Category CAP04: Atmospheric Radionuclides.]

1. **Category AE01: Inorganics - Non-Metals Analysis;**
2. **Category AE02: Inorganics - Metals Analysis;**
3. **Category AE03: Asbestos Analysis;**
4. **Category AE04: Organics Analysis;**
5. **Category AE05: Radionuclides Analysis;**
6. **Category AE06: Air - Laboratory Developed and/or Non-Standard Methods;**
7. **Category AE07: Air Sample Collection;**
8. **Category AE08: Radon in Air; and**
9. **Category AE09: Radon in Air - Laboratory Developed and/or Non-Standard Methods.**

(i) Table 2.1 illustrates the organization of subchapters 3 through 9 (N.J.A.C. 7:18-3 through 9).

TABLE 2.1 Organization of Subchapters 3 through 9

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[

SUB-CHAPTER	TITLE	CATEGORIES
3	General Laboratory Facilities & Equipment	All categories except SDW03, WPP03, SHW03
4	Microbiology	SDW01, WPP01, SHW01
5	Chemistry	SDW02, SDW04-SDW06, WPP02, WPP04-WPP07, SHW02, SHW04-SHW12, CLP01-CLP07, CAP01-04
6	Radiochemistry & Radon/Radon Progeny-in-Air	SDW07, SDW08, WPP09, WPP10, RAP01
7	Toxicity Testing	WPP08
8	Analyze Immediately	SDW03, WPP03, SHW03
9	Sample Requirements	All

]

SUB-CHAPTER	**TITLE**	**CATEGORIES**
3	**General Laboratory Facilities & Equipment**	**All**

4	**Microbiology**	**DW01-DW02, DW12-DW13, NPW01-NPW02, NPW15-NPW16, SCM01, SCM14**
5	**Chemistry**	**DW03-DW09, DW12-DW13, NPW03-NPW11, NPW15-NPW16, BT01-BT08, SCM02-SCM11, SCM13-SCM14, CLP01-CLP06, AE01-AE04, AE06-AE07**
6	**Radiochemistry & Radon/Radon Progeny-in-Air**	**DW10-DW11, DW13, NPW13-NPW14, NPW16, SCM12, SCM14, AE05, AE06, AE08-AE09**
7	**Toxicity Testing**	**NPW12**
8	**Analyze Immediately and Continuous Monitoring**	**DW04, NPW04**
9	**Sample Requirements**	**All**

(j) An out-of-State laboratory, which has received NELAP accreditation from a state that has received NELAP recognition, shall be eligible for reciprocal accreditation to perform environmental sample analyses in accordance with (a) through (i) above, provided:

1. The laboratory is NELAP accredited by a state recognized as a NELAP [accrediting authority] **accreditation body** for those fields of testing in which the laboratory is requesting accreditation pursuant to this subsection;

2. (No change.)

3. (No change.)

(k) (No change.)

(l) If, upon review of the documents listed in (j)2 and 3 above, the Department is unable to determine that the out-of-state laboratory has met the requirements of this chapter, then the Department shall contact the NELAP-primary [accrediting authority] **accreditation body** and request that it conduct an on-site [inspection] **assessment** of the laboratory.

7:18-2.5 Procedure for initial application of a laboratory seeking certification

(a) A laboratory seeking initial certification for one or more parameters in any category listed in N.J.A.C. 7:18-2.4(c) through [(g)] **(h)** shall submit an application to the Department, at the address listed in N.J.A.C. 7:18-1.6(a).

(b) The applicant shall complete the application form supplied by the Department, including the following:

1.-7. (No change.)

8. If the applicant has participated in [the USEPA Proficiency Testing Program and/or] any Department-authorized proficiency [program during] **testing study during** the 12 months immediately preceding the application, the applicant may submit the results of such proficiency testing for any parameters for which the applicant is seeking certification;

9. – 12. (No change.)

7:18-2.6 Conditions for the granting of certification

(a) To be eligible for certification, an applicant shall satisfy all of the requirements listed in (a)1 through 8 below:

1.-4. (No change.)

5. The applicant satisfies all applicable proficiency testing requirements under N.J.A.C. 7:18-2.13, including but not limited to, acceptably analyzing any and all [PE] **PT** samples for each parameter within each category for which certification is sought;

6. The applicant satisfies the requirements for on-site audits under N.J.A.C. 7:18-2.14, including, but not limited to, the requirement to correct deficiencies identified by the Department in the on-site audit. If the applicant is seeking certification for radiochemistry: radioactivity and radionuclide testing, radon, and radon/radon progeny in air, and the Department is unable to schedule an on-site audit within 90 days after receiving an administratively complete application, the Department may grant temporary approval to a laboratory to analyze radiochemical samples, excluding radon/radon progeny-in-air, until the Department performs the on-site audit. If the Department grants temporary approval, the applicant shall continue to participate in [the USEPA's] **an approved** proficiency testing program and acceptably analyze the program's samples;

7. The applicant completes its analysis of [PE] **PT** samples and all other requirements for certification within the time specified by the Department; and

8. (No change.)

(b) (No change.)

(c) [For Categories CAP01 through CAP04, a phase-in period may be available during which a laboratory may continue to analyze regulatory samples by methods not included in the laboratory certification program prior to adoption of the Clean Air Program in this chapter. To qualify for the phase-in period, the laboratory shall satisfy the requirements listed in 1 and 2 below.

1. By (date that is 180 days after the operative date of these Clean Air Program amendments), the laboratory shall submit an administratively complete application to the Department pursuant to N.J.A.C. 7:18-2.5. When the Department determines that the application is administratively complete, it will provide the laboratory with temporary approval to analyze regulatory samples. The laboratory may continue analyzing regulatory samples while the temporary approval is in effect. The approval shall remain in effect until one of the following occurs:
   i. The Department issues a certification and Annual Certified Parameter List pursuant to (b) above;
   ii. The laboratory fails to satisfy the requirements for certification within the time specified in (c)2 below; or
   iii. The Department denies the certification.
2. Within one year after submitting the application under (c)1 above, the environmental laboratory shall satisfy all other requirements for certification under (a) above. If the environmental laboratory satisfies all of these requirements except the requirement for an on-site audit, and the on-site audit requirement has not been satisfied because

the Department has not scheduled the audit, the temporary approval shall remain in effect until an event listed in (c)1i or 1iii occurs.

3. If a laboratory fails to submit an administratively complete application within the time allotted under (c)1 above, or if the temporary approval expires under (c)1i or 1iii above, the phase-in period is forfeited. The laboratory shall discontinue all regulatory sampling and analysis for Categories CAP01 through CAP04. Thereafter the laboratory shall follow the regular procedure for obtaining certification in accordance with N.J.A.C. 7:18-2.5.

(d) For sampling conducted for conformance with the PWTA, a phase-in period may be available during which a laboratory or its authorized representative may continue to collect samples for analysis of a parameter in which it holds certification. To qualify for the phase-in period, the laboratory shall satisfy the requirements listed below.

1. Within 90 days of September 16, 2002, the laboratory shall submit an administratively complete application to the Department pursuant to N.J.A.C. 7:18-2.5. When the Department determines that the application is administratively complete, it will provide the laboratory with temporary approval to collect samples for PWTA purposes. The laboratory or its authorized representative may continue collecting samples for PWTA purposes while the temporary approval is in effect until one of the following occurs:

i. The Department issues a certification and Annual Certified Parameter List pursuant to (b) above;

ii. The laboratory fails to satisfy the requirements for certification within the time specified in (d)2 below; or

iii. The Department denies the certification.

2. Within 90 days after submitting the application under (d)1 above, the laboratory shall satisfy all requirements for certification under (a) above. If the laboratory satisfies all of the requirements except the requirement for an on-site audit, and the on-site audit requirement has not been satisfied because the Department has not scheduled the audit, the temporary approval shall remain in effect until an event listed in (d)1i or 1iii occurs.

3. If a laboratory fails to submit an administratively complete application within the time allotted in(d)1 above or if the temporary approval expires under (d)1i or iii above, the phase-in period is forfeited. The laboratory and/or its authorized representative shall discontinue all sampling activities conducted for PWTA purposes. Thereafter the laboratory shall follow the regular procedure for obtaining certification in accordance with N.J.A.C. 7:18-2.5.]

7:18-2.9 Fees

(a) (No change.)

(b) The fee schedule is set forth below. To calculate the fee for a given service, add the fee for the administrative activity and the fee for each category affected by the application. For example, if a laboratory seeks an initial certification in category [SDW01] **DW01**, the fee would be the sum of [$825.00] **$900.00** (administrative activity fee) and [$206.00]

$540.00 (the category fee), for a total of [$1031] **$1440**. **For NELAP laboratories, the NELAP Supplemental Fee must also be included in the total.**

ENVIRONMENTAL LABORATORY APPLICATION, CHANGE-OF-STATUS, AND CERTIFICATION CATEGORIES		FEES
[I. ADMINISTRATIVE ACTIVITIES		
	Initial Application Fee for Certification	$825
	Renewal Application Fee for Certification	$295
	Request for modification in certified, applied or interim approval status	$236
	Alternate Test Procedure Application	$118
	Alternate Test Procedure Evaluation	$2004
II. DRINKING WATER PROGRAM CATEGORIES (SDW01-SDW08)		
SDW01	Microbiological Parameters	$206
SDW02	Inorganic Parameters including Sodium and Calcium	$236
SDW03	Analyze-Immediately Inorganic Parameters	$118
SDW04	Inorganic Parameters, Metals	$118
SDW05	Organic Parameters, Chromatography	$206
SDW06	Organic Parameters, Chromatography/Mass Spectrometry	$265
SDW07	Radiochemistry: Radioactivity and Radionuclide Parameters	$354
SDW08	Radon in Drinking Water	$177
III. WATER POLLUTION PROGRAM CATEGORIES (WPP01-WPP10)		
WPP01	Microbiological Parameters	$206

WPP02	Inorganic Parameters, Nutrients and Demand	$236
WPP03	Analyze-Immediately Inorganic Parameters (including Continuous Monitoring)	$118
WPP04	Inorganic Parameters, Metals	$118
WPP05	Organic Parameters, Chromatography	$147
WPP06	Organic Parameters, Chromatography/Mass Spectrometry	$265
WPP07	Organic Parameters, Individual Pesticides (GC, GC/MS, TLC)	$177
WPP08	Toxicity Testing Parameters	$2,240
WPP09	Radiochemistry: Radioactivity and Radionuclide Parameters	$354
WPP10	Radon in Wastewater	$177
	IV. RADON/RADON PROGENY-IN-AIR PROGRAM CATEGORY (RAP01)	
RAP01	Radon/Radon Progeny-in-Air	$236
	V. SOLID/HAZARDOUS WASTE CATEGORIES (SHW01-SHW12)	
SHW01	Microbiological Parameter (SW/HW)	$206
SHW02	Characteristics of Hazardous Waste (SW/HW)	$177
SHW03	Analyze-Immediately Parameters (SW/HW)	$118
SHW04	Inorganic Parameters (SW/HW)	$147
SHW05	Organic Parameters, Preparation and Screening (SW/HW)	$118
SHW06	Organic Parameters, Chromatography (SW/HW)	$236
SHW07	Organic Parameters, Chromatography/Mass Spectrometry (SW/HW)	$206
SHW08	Polychlorinated Dibenzo-p-dioxins and Polychlorinated	

	Dibenzofurans (SW/HW)	$236
SHW09	Miscellaneous Parameters (SW/HW)	$177
SHW10	Facility Specific Parameters (SW/HW)	$1,061
SHW11	Incinerator Emissions (SW/HW)	$236
SHW12	Immunoassay	$118
	VI. CERCLA/CLP CATEGORIES (CLP01-CLP07)	
CLP01	Multi-Media, Multi-Concentration Inorganics (CERCLA-CLP)	$147
CLP02	Multi-Media, Multi-Concentration Organics (CERCLA-CLP)	$383
CLP03	Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans (CERCLA-CLP)	$236
CLP04	Multi-Media High-Concentration Inorganics (CERCLA-CLP)	$177
CLP05	Multi-Media High-Concentration Organics (CERCLA-CLP)	$118
CLP06	Low-Concentration Water for Inorganics (CERCLA-CLP)	$177
CLP07	Low-Concentration Water for Organics (CERCLA-CLP)	$236
	VII. CLEAN AIR PROGRAM CATEGORIES (CAP01-CAP04)	
CAP01	Atmospheric Inorganic Parameters, Non-Metals	$118
CAP02	Atmospheric Inorganic Parameters, Metals	$147
CAP03	Atmospheric Organic Parameters	$236
CAP04	Atmospheric Radionuclides	$118]

I. Administrative Activities

Initial Application Fee	**$ 900.00**

Renewal Application Fee	**$ 600.00**
Request for Modification in Certified, Applied or Interim Approval Status	**$ 400.00**
NJ-NELAP Supplemental Fee	**$ 3,500**
Travel Assessment Fee (per hour, per day, per person)	**$ 134.00**
Laboratory Developed and/or Non-Standard Methods Application and Evaluation Fee	**$ 600.00**

II. Drinking Water Matrix Categories (DW01-DW13)

DW01	**Microbiology**	**$540.00**
DW02	**Parasitology and Molecular Microbiology**	**$1,675**
DW03	**Inorganic Parameters**	**$540.00**
DW04	**Analyze-Immediately and Continuous Monitoring**	**$235.00**
DW05	**Asbestos Analysis**	**$540.00**
DW06	**Metals**	**$540.00**
DW07	**Metals – ICP, ICP/MS and DCP**	**$840.00**
DW08	**Organic Parameters – Chromatography**	**$840.00**
DW09	**Organic Parameters – Chromatography/MS**	**$840.00**
DW10	**Radiochemistry – Radioactivity and Radionuclides**	**$840.00**
DW11	**Radon in Drinking Water**	**$370.00**
DW12	**Drinking Water Sample Collection**	**$235.00**
DW13	**Drinking Water – Laboratory Developed and/or Non-Standard Methods**	**$1,675**

III. Non-Potable Water Matrix Categories (NPW01-NPW16)

NPW01	**Microbiology**	**$540.00**
NPW02	**Parasitology and Molecular Microbiology**	**$1,675**
NPW03	**Inorganic Parameters**	**$540.00**
NPW04	**Analyze-Immediately and Continuous Monitoring**	**$235.00**
NPW05	**Asbestos Analysis**	**$540.00**
NPW06	**Metals – NPW Preparation Methods**	**$235.00**
NPW07	**Metals**	**$540.00**
NPW08	**Metals – ICP, ICP/MS and DCP**	**$840.00**
NPW09	**Organics – NPW Preparation Methods**	**$235.00**
NPW10	**Organic Parameters – Chromatography**	**$840.00**
NPW11	**Organic Parameters – Chromatography/MS**	**$840.00**
NPW12	**Toxicity Testing**	**$1,675**
NPW13	**Radiochemistry – Radioactivity and Radionuclides**	**$840.00**
NPW14	**Radon in Non-Potable Water**	**$370.00**
NPW15	**Non-Potable Water Sample Collection**	**$235.00**
NPW16	**NPW – Laboratory Developed and/or Non-Standard Methods**	**$1,675**

IV. Contract Laboratory Program Categories (CLP01-CLP06)

CLP01	**NPW - Multi-Concentration Inorganics**	**$540.00**
CLP02	**NPW - Multi-Concentration Organics**	**$840.00**
CLP03	**NPW – Polychlorinated Dibenzo-p-dioxins and**	**$840.00**

	Polychlorinated Dibenzofurans	
CLP04	**SCM - Multi-Concentration Inorganics**	**$540.00**
CLP05	**SCM - Multi-Concentration Organics**	**$840.00**
CLP06	**SCM – Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans**	**$840.00**

V. Solid and Chemical Materials Categories (SCM01-SCM14)

SCM01	**Microbiology**	**$540.00**
SCM02	**Characteristics of Hazardous Waste and Physical Analyses**	**$235.00**
SCM03	**Inorganic Parameters and Preparation**	**$540.00**
SCM04	**Asbestos Analysis**	**$540.00**
SCM05	**Metals – SCM Preparation Methods**	**$235.00**
SCM06	**Metals**	**$540.00**
SCM07	**Metals – ICP, ICP/MS and DCP**	**$840.00**
SCM08	**Organics – SCM Preparation and Screening Methods**	**$370.00**
SCM09	**Organic Parameters – Chromatography**	**$840.00**
SCM10	**Organic Parameters – Chromatography/MS**	**$840.00**
SCM11	**Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans**	**$840.00**
SCM12	**Radiochemistry – Radioactivity and Radionuclides**	**$840.00**
SCM13	**SCM Sample Collection**	**$235.00**

SCM14	**SCM - Laboratory Developed and/or Non-Standard Methods**	**$1,675**

VI. Air and Emissions Matrix Categories (AE01-AE09)

AE01	**Inorganics - Non-Metals Analysis**	**$370.00**
AE02	**Inorganics - Metals Analysis**	**$540.00**
AE03	**Asbestos Analysis**	**$540.00**
AE04	**Organics Analysis**	**$840.00**
AE05	**Radionuclides Analysis**	**$840.00**
AE06	**Air - Laboratory Developed and/or Non-Standard Methods**	**$1,675**
AE07	**Air Sample Collection**	**$370.00**
AE08	**Radon in Air**	**$370.00**
AE09	**Radon in Air - Laboratory Developed and/or Non-Standard Methods**	**$1,675**

VII. Biological Tissue Matrix Categories (BT01-BT08)

BT01	**Inorganic Parameters**	**$540.00**
BT02	**Metals – BT Preparation Methods**	**$235.00**
BT03	**Metals**	**$540.00**
BT04	**Metals – ICP, ICP/MS and DCP**	**$840.00**
BT05	**Organics – BT Preparation Methods**	**$235.00**
BT06	**Organic Parameters – Chromatography**	**$840.00**

BT07	**Organic Parameters – Chromatography/MS**	**$840.00**
BT08	**BT – Laboratory Developed and/or Non-Standard Methods**	**$1,675**

(c) (No change.)

(d) If a laboratory's application for certification is pending as of July 1 in a given year and it has not completed all the requirements for certification by that date, the laboratory shall pay the Administrative Activities - Renewal Application Fee described in (b) above by July 1, but is not required to pay the fee for the category or categories in which certification is pending. If the laboratory becomes certified in such a category after July 1, it shall pay the fee for the category, pro-rated for the number of months (including any part of a month) remaining until the following July 1. The laboratory shall pay this fee within 30 days after the laboratory becomes certified. For example, if a laboratory applies for certification in Category [SDW01] **DW01** on October 1, [1996] **2015**, but does not become certified in that category until September 15, [1997] **2016**, it shall pay fees as follows:

1. On October 1, [1996] **2015**, [$825.00] **$900.00** for the initial application fee and [$206.00] **$540.00** for the category;
2. On July 1, [1997] **2016**, [$295.00] **$600.00** for the renewal application fee; and
3. Within 30 days after September 15, [1997] **2016**, [$172.00] **$450.00** representing the [$206.00] **$540.00** category fee pro-rated for 10 months.

(e) Environmental laboratories applying for or renewing certification [in] **for a similar technology in more than one of** the following combined categories are eligible for a reduced fee:

1. Microbiological parameters, Categories [SDW01, WPP01 and/or SHW01: $295.00] **DW01, NPW01, and/or SCM01: $1026.**
2. [Inorganic parameters,] Analyze-Immediately **and Continuous Monitoring** Categories [SDW03, WPP03, and/or SHW03: $118.00] **DW04 and NPW04**: **$376.00.**
3. [Inorganic Parameters,] Metal Categories [SDW04, WPP04 and/or SHW04: $147.00] **DW06**, **NPW07, and/or SCM06: $1026.**
4. [Radon In Water, Categories SDW08 and WPP10: $177.00.] **Metals – ICP, ICP/MS and DCP Categories DW07, NPW08 and/or SCM07: $1596.**
5. **Radon in Water, Categories DW11 and NPW14: $703.00.**

[(f) If the Department conducts an on-site audit of an out-of-State environmental laboratory, the Department shall provide the laboratory with an invoice specifying the costs of overnight travel, room and board, miscellaneous expenses of the Department certification inspectors, and (for environmental laboratories located outside the United States) expenses resulting from foreign currency exchanges. Within 60 calendar days after the date of the invoice, the laboratory shall remit to the Department the fee specified on the invoice.

(g) If the Department purchases PE samples to send to a laboratory for use in the proficiency testing program, the Department shall provide the laboratory with an invoice stating the actual cost paid to purchase the samples. Within 60 calendar days after the date of the invoice, the

laboratory shall remit to the Department the amount specified on the invoice.

(h) The modification fee of $236.00 specified at (b) above does not apply to those laboratories modifying their existing certification to obtain certification in sampling activities, for conformance with the PWTA during the time period specified at N.J.A.C. 7:18-2.6(d)1.

(i) The modification fee of $236.00 specified at (b) above does not apply to those laboratories that modify their existing certification in order to obtain certification in categories in the Clean Air Program (CAP) during the rule phase in period specified at N.J.A.C. 7:18-2.6(c).]

(f) If the Department conducts an on-site audit of an out-of-State environmental laboratory, the laboratory shall be responsible for payment of the costs incurred by the certification inspector, in accordance with the following:

1. The direct cost of overnight accommodations, transportation, meals, miscellaneous expenses and, if the laboratory is located outside the United States, expenses resulting from foreign currency exchanges, as follows:

i. The laboratory shall pay the certification inspector's lodging and transportation expenses directly to the hotel and transportation provider in advance of the on-site audit.

ii. If the Department pays the costs identified in (f)1 above, the laboratory shall reimburse the Department within 30 calendar days after the date of the Department's statement to the laboratory, setting forth the costs.

iii. If the certification inspector pays the costs identified in (f)1 above, the laboratory shall reimburse the certification inspector directly, within 30

calendar days after the date the certification inspector presents the laboratory with receipts or other evidence of costs incurred.

2. **The costs paid by the laboratory under (f)1 above shall be only those incurred by the certification inspector in accordance with State and Federal travel policies, including, but not limited to, motor vehicle mileage reimbursement, and allowances for meals, incidental expenses, and per diem.**
3. **When an overnight stay is necessary in order for the certification inspector to conduct an audit, the Department shall calculate and assess the Travel Assessment Fee in (b) above for the certification inspector's travel time to and from the laboratory, not to exceed seven hours per inspector per travel day. Travel time is measured from the time the inspector leaves his or her home until the time he or she arrives at either the hotel or the laboratory, whichever is first. The Department shall provide the laboratory with an statement specifying the calculated Travel Assessment Fee. Within 30 calendar days after the date of the statement, the laboratory shall remit to the Department the fee specified on the statement. The Travel Assessment Fee shall be in addition to any other fees or expenses payable in accordance with N.J.A.C. 7:18-2.9.**

(g) If the Department purchases PT samples for a laboratory, the laboratory shall reimburse the Department for the actual cost that the Department incurs to purchase the PT samples. The Department shall provide the laboratory with an invoice specifying the costs incurred. Within 30 calendar days after the date of the

invoice, the laboratory shall remit to the Department the amount specified on the invoice.

7:18-2.9A Annual adjustment of fees

(a) When, based on budget considerations, the Department determines to adjust the fees established in N.J.A.C. 7:18-2.9, Fees, for the upcoming State fiscal year (which runs from July 1 to June 30), the Department shall:

1. **Prepare a Fee Adjustment Report, in accordance with (b) below; and**
2. **Publish a notice of administrative change in the New Jersey Register that:**
   i. **States that the Fee Adjustment Report is available on the Department's website at www.nj.gov/dep/oqa; and**
   ii. **Sets forth the adjusted fees determined as provided at (b) below.**

(b) In the Fee Adjustment Report, the Department shall:

1. **Project the total amount of money required to fund the program in the upcoming State fiscal year. This projection shall consider the following:**
   i. **The number and type of Department staff required to perform each activity for which fees are charged and the projected total salaries of those staff for the upcoming State fiscal year;**
   ii. **The total cost of fringe benefits for those Department staff, calculated as the projected total salaries of those staff multiplied by a percentage set by the New Jersey Department of the Treasury that reflects costs associated with pensions,**

health benefits, workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;

iii. Indirect costs attributable to those Department staff, calculated as the total salaries and fringe benefits for those staff multiplied by a percentage known as the indirect cost rate. The indirect cost rate is negotiated annually with the U.S. Environmental Protection Agency and is the total of the Department's costs for management and administrative costs applicable to multiple cost objectives (including but not limited to, indirect management and administrative salary and non-salary costs, applicable fringe benefits, building rent, and the Department's share of the Statewide Cost Allocation Plan) divided by total Department direct salaries plus applicable fringe benefits; and

iv. Projected operating costs attributable to those Department staff, including, but not limited to, costs for postage, telephone, travel, supplies, and data system management;

2. Project the total amount of revenue expected to be received from fees identified in N.J.A.C. 7:18-2.9 in the upcoming State fiscal year. This projection shall consider the following:

i. The amount and type of fees for initial or renewal certifications or modifications of certifications received in the previous State fiscal year. Any trend toward increasing or decreasing certification activities and such trend's impact, if any, on the amount and type of fees anticipated for the upcoming State fiscal year; and

iii. Other data concerning economic trends reasonably likely to influence the amount and type of fees anticipated for the upcoming State fiscal year;

iv. The fees in effect at the time such projection is made.

3. Project the total amount of money to be available from sources other than fees, such as State appropriations or Federal grants, for the upcoming State fiscal year;

4. Subtract the amounts in (b)2 and (b)3 above from the amount in (b)1 above. The remainder is the projected fee revenue shortfall for the upcoming State fiscal year; and

5. Divide the projected fee revenue shortfall in (b)4 by the total amount of revenue expected to be received from fees in (b)2 to determine the fee adjustment factor. The amounts of the adjusted fees for the upcoming State fiscal year shall be obtained by increasing the existing fees by the fee adjustment factor.

(c) When the Department increases fees in accordance with this section, each increased fee shall be rounded to the next whole dollar.

7:18-2.10 Environmental laboratory personnel requirements

(a) A certified environmental laboratory shall employ qualified personnel who possess the education, training, and experience required under this section. The laboratory shall maintain, current employee records that include a resume and college transcript documenting each employee's training, experience, duties, and dates of relevant employment. The laboratory shall include at least the following personnel:

1.-2. (No change.)

3. A Quality Assurance (QA) officer. For a laboratory that is certified or seeks to be certified in any of categories CLP01 through [7] **6**, the QA officer shall meet the applicable requirements of (b)9 below. For any other laboratory, the QA officer shall meet the applicable requirements of (b) below for a supervisor in any Category, provided however, that an individual who meets only the requirements for a supervisor in the Categories listed in (b)2 below may serve as the QA officer only in those Categories; and

4. (No change.)

(b) No environmental laboratory shall be certified to perform analyses in a Category unless the supervisor and operating personnel (where so indicated) meet the following requirements:

1. For Microbiological **and Parasitology and Molecular Microbiology** Testing in Categories [SDW01, WPP01 and SHW01] **DW01-DW02, NPW01-NPW02, and SCM01,** the supervisor shall meet the requirements of at least one of the qualification levels listed below:

QUALIFICATION LEVEL	DEGREE	MICROBIOLOGY CREDITS	YEARS OF EXPERIENCE MICROBIOLOGICAL ANALYSIS[3]
A	≥ BA/BS[1]	4[2]	1[2]
B	AA[1]	4[2]	3[2]
C	None	0	5[2]

[1] Degree in a chemical, physical, biological, or environmental science from an accredited institution.

[2] Courses from an accredited college, or equivalent course from a training institute if supervisor has less than four semester hours credit in bacteriology.

[3] Unless the above requirements are more stringent, personnel requirements for Parasitology and Molecular Microbiology shall be in accordance with all associated method requirements.

2. For Chemical Testing in analyze-immediately **and continuous monitoring** Categories [SDW03, WPP03, SHW03 for residual chlorine, chlorine dioxide, residual ozone, dissolved oxygen with probe, sulfite, temperature, pH,] **DW04 and NPW04,** and Categories [SDW02 & WPP02] **DW03 and NPW03** for turbidity and residue-settleable the supervisor shall have had at least three months of experience in performing these tests;
3. For Chemical Testing in **Inorganic Parameters, Characteristics of Hazardous Waste and Physical Analyses, Inorganic Parameters and Preparation, and Inorganics – Non-Metals Analysis** Categories: [SDW02, Inorganic Parameters Including Sodium and Calcium; WPP02, Inorganic Parameters, Nutrients & Demand (except those listed in (b)2 above); CAP01, Atmospheric Inorganic Parameters, Non-Metals; and CAP04, Atmospheric Radionuclides] **DW03, NPW03, SCM02-03, AE01, and BT01,** the supervisor shall meet the requirements of at least one of the qualification levels listed below:

		YEARS OF EXPERIENCE
QUALIFICATION LEVEL	DEGREE	CHEMICAL ANALYSIS AND/OR TRAINING
A	≥ BA/BS[1]	1[2]
B	AA[1]	3[2]
C	None	5[2]

[1] Degree in a chemical, physical, biological, or environmental science from an accredited institution.

[2] Have at least one year of laboratory experience in the chemical analysis of drinking water, [water pollution, solid/hazardous waste samples or air samples] **non-potable water**, **solid and chemical materials, air and/or emissions, or biological tissue samples.**

4. For Chemical Testing in **Metals, Metals-ICP, ICP/MS and DCP, Metals Preparation Categories, Inorganics – Metals Analysis, and Asbestos Analysis** Categories: [SDW04, Inorganic Parameters, Metals; CAP02, Atmospheric Inorganic Parameters, Metals; SHW09, Miscellaneous Parameters, and SHW10, Facility Specific Methods] **DW05-DW07, NPW05-NPW08, SCM04-SCM07, AE02-AE03, AE07, and BT02-BT04,** the supervisor shall meet the requirements of at least one of the qualification levels listed below:

QUALIFICATION LEVEL	DEGREE	YEARS OF EXPERIENCE CHEMICAL ANALYSIS AND/OR TRAINING
A	≥ BA/BS[1]	1[2]
B	AA[1]	3[2]
C	None	5[3]

[1]Degree in chemical, physical, biological, or environmental science from an accredited institution.

[2]Have at least one year of laboratory experience in the analysis of drinking water, [water pollution, solid/hazardous waste samples**,** or air samples] **non-potable water, solid and chemical materials, air and/or emissions, or biological tissue samples**; and have six months experience in one or more instrumental techniques for the determination of metals, minerals (asbestos), metal ions, or anions, or have completed a formal training course in the operation of one or more of those instruments.

[3]Same as footnote 2 above except that three years of laboratory experience in the analysis of drinking water, [water pollution, solid/hazardous waste samples, or air samples] **non-potable water, solid and chemical materials, air and/or emissions, or biological tissue samples** is required.

5.-6. (No change.)

7. For Chemical Testing in **Organic Parameters – Chromatography, Organic Parameters – Chromatography/MS, Organic Sample Preparation Categories, Organics Analysis and Polychlorinated Dibenzo—p-dioxins and Polychlorinated**

Dibenzofurans Categories; [CAP03, Atmospheric Organic Parameters; SDW05, Organic Parameters, Chromatography; SDW06, Organic Parameters, Chromatography/Mass Spectrometry; WPP05, Organic Parameters, Chromatography; WPP06, Organic Parameters, Chromatography/Mass Spectrometry; WPP07, Individual Pesticides (GC, GC/MS, TLC); SHW05, Organic Parameters, Preparation and Screening; SHW06, Organic Parameters, Chromatography; SHW07, Organic Parameters, Chromatography/Mass Spectrometry; SHW08, Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans; SHW09, Miscellaneous Parameters; SHW10, Facility Specific Parameters; SHW11, Incinerator Emissions; and SHW12, Immunoassay] **DW08-DW09, NPW09-NPW11, SCM08-SCM11, AE04, and BT05-BT07,** the supervisor shall meet the requirements of at least one of the qualification levels listed below:

QUALIFICATION LEVEL	DEGREE	YEARS OF EXPERIENCE CHEMICAL ANALYSIS AND/OR TRAINING
A	≥ BA/BS[1]	1[2]
B	AA[1]	3[2]
C	None	5[3]

[1]Degree in chemical, physical, biological, or environmental science from an accredited institution.

[2]At least one year of laboratory experience in chemical testing of drinking water, [water pollution, solid/hazardous waste samples, or air samples] **non-potable water, solid and chemical materials, air and/or emissions, or biological tissue samples**; have six months experience in the instrumental technique (GC, LC, GC/MS, or LC/MS) being practiced for the analysis of drinking water, [water pollution, solid/hazardous waste samples, or air samples] **non-potable water, solid and chemical materials, air and/or emissions, or biological tissue samples** A formal training course in the instrumental technique for which certification is sought may be substituted for the experience requirements.

[3]Same as footnote 2 above except that three years of laboratory experience in chemical testing of drinking water, water pollution, solid/hazardous waste samples, or air samples] **non-potable water, solid and chemical materials, air and/or emissions, or biological tissue samples** is required.

8. (No change.)

9. For Chemical Testing in Categories: **NPW and SCM-Multi-Concentration Inorganics, NPW and SCM Multi-Concentration Organics, and NPW and SCM-Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans** [CLP01, Multi-Media/Multi Concentration Inorganic Parameters; CLP02, Multi-Media/Multi-Concentration Organic Parameters; CLP03, Polychlorinated Dibenzo-p-dioxins & Polychlorinated Dibenzofurans; CLP04, Multi-Media/High Concentration Inorganic Parameters; CLP05, Multi-Media High Concentration Organic Parameters; CLP06, Low Concentration Water for Inorganic Parameters; and CLP07, Low Concentration Water for Organic Parameters] **CLP01 thru**

CLP06, the laboratory shall have qualified personnel to perform the analyses under the CLP categories of analysis.

10. For Radiochemical Testing in **Radiochemistry – Radioactivity and Radionuclides, Radon in Drinking Water, Radon in Non-Potable Water, and Radionuclides Analysis** Categories: [SDW07, Radiochemistry; Radioactivity & Radionuclide Parameters; SDW08, Radon in Drinking Water; WPP09, Radiochemistry: Radioactivity & Radionuclide Parameters; and WPP10, Radon in Wastewater] **DW10-DW11, NPW13-NPW14, SCM12, and AE05**, the supervisor shall meet the requirements of at least one of the qualification levels listed below:

		YEARS OF EXPERIENCE
QUALIFICATON LEVEL	DEGREE	CHEMICAL ANALYSIS AND/OR TRAINING
A	≥ BA/BS[1]	5[2]
B	AA[1]	7[2]

[1] Degree in chemical, radiochemical, radioisotope technology, biological, physical or environmental science from an accredited institution.

[2] Two years of experience must be in radiochemical analysis.

11. For Category [RAP01] AE08, Radon/Radon Progeny-in-Air, the supervisor shall meet the requirements of at least one of the qualification levels listed below:

QUALIFICATION LEVEL	DEGREE	YEARS OF EXPERIENCE CHEMICAL ANALYSIS AND/OR TRAINING
A	≥ BA/BS[1]	1[2]
B	AA[1]	3[2]
C	None	5[3]

[1] Degree in chemical, radiochemical, radioisotope technology, biological, physical or environmental science from an accredited institution.

[2] Two years of experience must be in radiochemical analysis.

12. For Toxicity Testing in Category [WPP08] **NPW12**, the supervisor shall meet the requirements of at least one of the qualification levels listed below:

QUALIFICATION LEVEL	DEGREE	CREDITS	YEARS OF EXPERIENCE TOXICITY TESTING AND/OR TRAINING
A	≥ BA/BS[1]	6[2]	1[3,4]

B	MA[3] or MS[3]	6[2]	--[4]

[1] Degree in a biological or environmental science from an accredited institution.

[2] Shall include or be supplemented by six semester credit hours in any of the following subjects: (a) General Zoology; (b) Biological Methods and Experimental Design; (c) Ichthyology.

[3]Shall have successfully completed at least six definitive bioassays prior to applying for supervisor. The laboratory shall retain the documentation for these assays, and make it available during an audit by a representative of the Department.

[4]Demonstrates competency in the operation of bioassay equipment and techniques during an audit by a representative of the Department.

13. For Laboratory Developed and/or Non-Standard Method Categories: DW13, NPW16, SCM14, AE06, AE09 or BT08, the supervisor shall meet the most stringent requirements listed for the category area of interest.

[13] **14.** If the bachelor degree is required and was granted from a regionally accredited United States or Canadian college or university, the requirement is satisfied. If the degree was granted by a foreign college or university, a copy of the evaluation by the World Education Service, Inc., [P.O. Box 745, Old Chelsea Station, New York, NY 10013] **P.O. Box 5087, Bowling Green Station, New York, NY 10274-5087,** (212) 966-6311, or most current information, shall be provided to the Department; and

[14] **15.** (No change in text.)

7:18-2.13 Proficiency testing program

(a) (No change.)

(b) To maintain certification, a certified environmental laboratory shall successfully complete proficiency testing pursuant to (h) through (j) below.

1. For all categories other than radiochemical testing, radon in water, and radon/radon progeny-in-air:

i. [The Department or its designated testing program will conduct at least two proficiency tests per parameter (including indicator parameters) each year.] **Each certified laboratory shall obtain and analyze PT samples from a Department approved PT sample provider within the timeframe and in accordance with the schedule that the Department establishes. A Department approved PT sample provider is one that is accredited by a Proficiency Test Provider Accreditor that meets the TNI requirements. The Department will announce at least two pre-determined timeframes a year for the required parameters within a matrix.** All laboratories certified for that parameter (including indicator parameters) shall participate in at least one proficiency test **study** each year **per matrix in accordance with the predetermined schedule**. If a laboratory fails to successfully complete a proficiency test **study**, it shall participate in **another proficiency test study within the Department's prescribed timeframe [**the next scheduled proficiency test];

ii. - iii (No change.)

2. For radiochemical testing, a laboratory shall acceptably analyze one [USEPA blind PE] **PT** sample [and two performance evaluation samples] **obtained from a Department approved PT sample provider within the prescribed timeframe and schedule designated by the Department** per year.

3. For radon in water, a laboratory shall acceptably analyze all required [PE] **PT** samples, **obtained from a Department approved PT sample provider within the prescribed timeframe and schedule designated by the Department,** not to exceed four samples per year**, at such time as radon in water PT samples are available**.

4. (No change.)

(c) Proficiency testing for a specific parameter or group thereof in a particular Category is not required if the Department determines that [PE] **PT** samples are unavailable.

(d) Except as provided in (e) through (g) below, the Department [or its designated proficiency testing program] **approved PT sample provider** shall distribute [PE] **PT** samples or make them available, at times and frequencies that the Department determines are necessary for effective administration of proficiency testing. N.J.A.C. 7:18-2.9(g) provides for the Department to be reimbursed if it purchases [PE] **PT** samples to send to a laboratory for use in the proficiency testing program.

(e) A laboratory shall obtain [PE] **PT** samples for the determination of radioactivity and radionuclide parameters in water from [the USEPA's radiological proficiency testing program or from the Department's designated proficiency testing program] **a**

Department approved PT sample provider within the prescribed timeframe and schedule designated by the OQA.

(f) A laboratory shall obtain [PE] **PT** samples for the determination of radon in water from [the USEPA's Intercomparison Study Program or from the Department's designated proficiency testing program.] **a Department approved PT sample provider within the prescribed timeframe and schedule designated by the OQA, at such time as radon in water PT samples are available**.

(g) A laboratory shall obtain [PE] **PT** samples for the determination of radon/radon progeny-in-air from the USEPA's Radon Measurement Program or from [the Department's designated proficiency testing program] **a Department approved PT sample provider**.

(h) A laboratory participating in the proficiency testing program shall perform the following tasks:

1. Receive, examine, and analyze [PE] **PT** samples according to instructions;
2. Maintain all records of [PE] **PT** testing results;
3. For all categories, except radiochemical testing, radon in water, and radon/radon progeny-in-air, **request that the approved PT sample provider** submit results of [PE] **PT** testing to the Department for evaluation in accordance with the Department's instructions;
4. For radiochemical testing, radon in water, and radon/radon progeny-in-air, submit results of [PE] **PT** testing in accordance with the directions of the USEPA or the authorized proficiency testing program; and

5. For radon/radon progeny-in-air, **request that the approved PT sample provider** submit evaluated radon measurement proficiency results to the Department.

(i) The specific requirements for the proficiency testing program are set forth below in this subsection.

1. For a laboratory seeking certification in any Category other than radiochemical testing, radon in water, or radon/radon progeny-in-air:

i. A laboratory that has participated in [the USEPA] **a PT study conducted by a Department approved PT sample provider for** the Drinking Water**,** [and/or Water Pollution] **Non-Potable Water, Air and Emissions, and/or Solid and Chemical Materials** Proficiency Testing Program during the immediate preceding 12 months may submit, for the Department's evaluation, the results for the parameters for which it is applying in the Department's Drinking Water**,** [and/or Water Pollution] **Non-Potable Water, Air and Emissions and/or Solid and Chemical Materials** Programs. Otherwise, the conditions of (i)1ii below apply; and

ii. A laboratory seeking certification in a specific parameter or group thereof under a particular Category shall acceptably analyze a [PE] **PT** sample obtained [in accordance with (d) above] **from a Department approved PT sample provider**. The laboratory shall have two separate opportunities to acceptably analyze [PE]**PT** samples for each parameter. If the laboratory fails in both opportunities to acceptably analyze [PE]**PT** samples for a parameter,

the Department shall deny the application for certification. The laboratory may reapply for certification in that parameter.

2. For a laboratory seeking certification in radiochemistry, radioactivity and radionuclide testing, or radon/radon progeny-in-air:

i. For analysis of radiochemical parameters in water, the laboratory shall [submit copies of USEPA performance evaluation reports indicating that for radiochemical PE tests] **have acceptably analyzed a PT study conducted by a Department approved PT sample provider** [analyzed] within the preceding 12 months**.** [, two blind PE samples or] **If PT samples are unavailable for the required parameters then results for** two cross-check samples [have been] **that are** within the control limits established for each parameter in which certification is sought **shall be submitted to the Department for evaluation**;

ii. For analysis of radon in drinking water and [wastewater] **non-potable water** samples, the laboratory shall **have a Department approved PT sample provider** submit [copies of USEPA performance evaluation] **final PT** reports indicating that during the applicant's participation in the most recent [USEPA] Radon Intercomparison Study, at least [two blind] **one** [PE] **PT** sample[s] or two cross-check samples were within the established control limits **within the preceding 12 months**; and

iii. For analysis of radon/radon progeny-in-air, the laboratory shall **have a Department approved PT sample provider** submit [copies of performance

evaluation reports] **final PT reports** showing passage of [two] **a** Department-[authorized proficiency tests]**approved PT study**. [At least one of the tests shall be either the most recent round of the USEPA Radon Measurement Program or a proficiency test] **The PT study** administered **shall have been performed** within the past 12 months **and obtained** from a Department-[authorized] **approved** [proficiency testing program] **PT sample provider**. The laboratory shall pass a test for each measurement device/technique for which certification is desired, prior to applying for certification.

3. For certified environmental laboratories:

i. For all Categories, except radiochemical testing, radon in water, and radon/radon progeny-in-air, the Department shall notify the laboratory, in writing by certified mail **or other means that provides proof of delivery**, [of the following; an announcement of each proficiency test, the final shipping date of PE samples, and the date results are to be submitted to the Department] **of the specific timeframe within which laboratories are required to analyze the PT samples, the due date by which the final PT study results are to be submitted to the Department by the PT sample provider, a list of Department approved PT sample providers, and the list of parameters required for analysis within the applicable matrix.**

ii. In connection with a proficiency test announced under (i)3i above, if a laboratory [receives PE samples that are not in satisfactory condition, or does not receive PE samples at all, the laboratory shall notify the Department

within 15 days after the final shipping date. The Department may establish a new date for submission of results for those laboratories requiring replacement samples, based on the date that replacement samples are sent to those laboratories. If the laboratory does not notify the Department within the allotted 15 days, the laboratory will be considered to have received all samples and received them in an acceptable condition for analysis] **does not meet the deadlines or comply with any requirement set forth in the announcement notice, the laboratory's PT study results shall be considered unacceptable and an additional PT sample shall be analyzed as directed by the Department**; For the Radiochemical Categories **not included in the Department's pre-determined schedule**, the scheduling and requirements for the proficiency test are as established by the [USEPA] **Department approved PT sample provider**. For the Radon/Radon Progeny-in-Air Categories, the laboratory shall contact the OQA to obtain a list of exposure facilities approved by the Department's authorized radon/radon progeny-in-air proficiency testing program. The laboratory shall arrange with the exposure facility to schedule an exposure period for the laboratory's test devices;

iv.–v. (No change.)

vi. The Department may require a laboratory to analyze additional [PE] **PT** samples beyond what is required under (i)3i above, if information available to

the Department indicates that the laboratory is failing to acceptably analyze samples;[and]

vii. Upon request of any person using or requesting the services of a certified environmental laboratory, the laboratory shall make available all results of the past 12 months' [PE] **proficiency** testing[.]**; and**

viii. **Upon a laboratory's receipt of unacceptable results for a PT study the laboratory shall investigate the cause for the failure and implement any necessary corrective action. This corrective action shall be documented immediately. Documentation shall be maintained and made available to the Department upon request.**

(j) [Specific requirements for acceptable analysis of PE samples are as follows:

1. For microbiological testing, chemical testing, and toxicity testing:

i. For all drinking water parameters and water pollution parameters tested using the USEPA proficiency studies, the reported values must fall within the acceptance limits established for a given PE sample study by the USEPA;

ii. For proficiency studies, inclusive of all parameters in all Categories (except radon/radon progeny-in-air) and conducted independently of the USEPA proficiency programs for drinking water and water pollution, reported values for PE samples must fall within the following acceptance limits:

(1) For a set of PE samples from a natural sample matrix, analytical results for a given parameter must fall within the 99 percent confidence interval about the mean value; and

(2) For a set of PE samples with a known amount of analyte added, analytical results for a given parameter must fall within the 95 percent confidence interval about the target value for drinking water samples, and within the 99 percent confidence interval for other sample matrices; and

iii. For the radon/radon progeny-in-air measurement proficiency program the criterion used in evaluating the radon measurement test results requires that the value of the individual relative error (IRE) of radon measurement not exceed 25 percent.]**For all drinking water, non-potable water, air and/or emissions, solid and chemical materials, and radon/radon progeny-in-air parameters tested using Department approved PT studies the reported values must fall within the acceptance limits established by the PT sample provider for a given PT sample, except:**

(1) For the radon/radon progeny-in-air measurement proficiency program, the criterion used in evaluating the radon measurement test results requires that the value of the individual relative error (IRE) of radon measurement not exceed 25 percent.

7:18-2.14 On-site Audits

(a) - (g) No change.

(h) An out-of-state environmental laboratory shall pay a fee to cover the travel expenses incurred by an auditor during an on-site audit in accordance with N.J.A.C. 7:18-2.9(f).

7:18-2.15 Cancellation, suspension or revocation of certification

(a) Any certified environmental laboratory may cancel its certification in any Category, or in any parameters within a Category, by notifying the Department in writing. Cancellations during a [proficiency]**PT** study are subject to N.J.A.C. 7:18-2.13(i)3iv. When totally withdrawing from the environmental laboratory certification program, the environmental laboratory shall enclose its certificate and ACPL with the letter of notification. This cancellation notification shall not entitle the environmental laboratory to any refund of its certification fees.

(b) The Department may suspend a certified environmental laboratory's certification for any one or more of the grounds listed below. Grounds for suspension include the following:

1. For all Categories, except Radiochemical Testing and Radon/Radon Progeny-in-Air, failure to submit results of [PE] **PT** sample analyses for every required parameter in two consecutive proficiency studies, pursuant to N.J.A.C. 7:18-2.13;
2. For the Radiochemical or Radon/Radon Progeny-in-Air Categories, failure to submit results of [PE] **PT** samples in two consecutive [proficiency]**PT** studies as required under N.J.A.C. 7:18-2.13(h);
3. For all Categories, except those in Radiochemical Testing, Radon/Radon Progeny-in-Air, or Categories [SDW05, SDW06, WPP05, WPP06, WPP07, SHW05, SHW06, SHW07, SHW08, SHW09, SHW12, CLP02, CLP03, CLP05, CLP07, CAP02, and CAP03,] **DW08, DW09, NPW10, NPW11, SCM09, SCM10, SCM11, CLP02, CLP03, CLP05, CLP06, and AE04,** failing to acceptably analyze all samples for any one parameter in two consecutive [proficiency]**PT** studies. This failure is grounds for suspension in the parameter;

4. For Categories [SDW05, SDW06, WPP05, WPP06, WPP07, SHW05, SHW06, SHW07, SHW08, SHW09, SHW12, CLP02, CLP03, CLP05, CLP07, CAP02, and CAP03,] **DW08, DW09, NPW10, NPW11, SCM09, SCM10, SCM11, CLP02, CLP03, CLP05, CLP06, and AE04,** failing to acceptably analyze all samples for any one parameter in two consecutive proficiency studies. This failure is grounds for suspension in the method used to analyze the parameter in question;

5. For radiochemical parameters, failure to acceptably analyze one [USEPA blind PE] **PT** sample[s] [and] **or** two cross-check samples per year;

6. For determination of radon in water, failure to acceptably analyze all required [PE]**PT** samples, not to exceed four samples per year;

7.-9. (No change.)

(c) – (f) (No change.)

7:18-2.20 Application for alternate test procedure (ATP) approval

(a) Modifications to DSAMs or new methods not included in DSAMs, **Laboratory Developed and/or Non-Standard Methods** are considered ATPs. A certified laboratory or laboratory holding temporary approval shall not use such a modification or new [technique] **Laboratory Developed and/or Non-Standard Method** unless the Department has approved it as an ATP and added it to the laboratory's Annual Certified Parameter List. Any certified environmental laboratory may apply to the

Department for approval of an ATP, in accordance with this section. The Department will not approve a proposed ATP unless it meets the following requirements:

1. An ATP proposed as a modification to a DSAM must achieve equal or improved precision, accuracy, and method detection limits **or quantitation limits as appropriate** when compared to the approved method for the specified parameters; and
2. If the ATP is proposed as a new method rather than as a modification to a DSAM, the laboratory must demonstrate that the proposed ATP will achieve the precision, accuracy and method detection limits **or quantitation limits as appropriate**, that are sufficient to meet the data quality requirements of the regulatory program for which the ATP is to be used; and
3. **For methods that include modifications to the determinative step, preservations or pretreatment procedures, the laboratory can obtain certification for a laboratory developed and/or non-standard method option on its Annual Certified Parameter List as long as the laboratory and its client agree to the use of the method for other than the reporting of compliance data, or for use as specified in a Quality Assurance Project Plan or other form of contracted analytical services.**

(b) The Department may approve an ATP for **a laboratory method that is driven by client needs for** limited use, or for limited use for a facility-specific [method] **request**.

1. (No change.)

2. The Department may approve an ATP for limited use by a certified environmental laboratory for a facility-specific [method] **request**. Facility-specific method[s] **requests are** [those] methods developed by an environmental laboratory to meet unique [waste] analysis requirements of a particular client facility when DSAMs are not applicable. Generally, these methods are DSAMs modified for macro**/micro** analysis or matrix interferences. The facility-specific ATP can be used only by the certified laboratory that receives the approval, and only for analyses performed for the specified client facility.

(c) To apply for an ATP, the certified environmental laboratory shall submit a letter of request to the Department, including:

1.-6. (No change.)

7. Precision, accuracy, and method detection limits (MDLs) data **or quantitation limits as appropriate** in a reference matrix for the proposed ATP. MDLs shall be determined as outlined in Appendix B of Section 136 of 40 CFR;

8. Precision, accuracy, and MDL data **or quantitation limits as appropriate** for the parameter(s) of interest spiked into the actual matrices covered by the method;

9. Comparability data (precision, accuracy, MDLs**, or quantitation limits**) for the performance of the proposed ATP versus that of a DSAM if the parameter(s) can be analyzed by the DSAM; and

10. (No change.)

(d) (No change.)

7:18-2.21 Changes in status of DSAMs

(a) Changes in the DSAM status of methods approved for use by certified environmental laboratories will be accomplished by the Department as follows:

1.-2. (No change.)

3. New or revised Department analytical methods **that the Department determines are necessary to fulfill the analytical requirements of one of the programs listed at N.J.A.C. 7:18-2.4(a)** [for sludge analysis] shall become DSAMs on the operative date of the amendments or supplements [to N.J.A.C. 7:14C adding or revising such methods].

4. The Department may establish additional DSAMs by amending this chapter pursuant to the Administrative Procedure Act, N.J.S.A. 52:1B-1 et seq. Examples of additional DSAMs include:

i.-iii. (No change.)

5. No change

SUBCHAPTER 4 MICROBIOLOGICAL TESTING

7:18-4.1 Scope

(a) This subchapter applies to certified environmental laboratories when performing microbiological testing on regulatory samples, and to other laboratories performing microbiological testing on [PE] **PT** samples to become certified. This subchapter applies to microbiological testing for parameters in the following categories:

1. [Drinking Water Program, including testing conducted under the Private Well Testing Act, - Category SDW01] **Categories DW01 and DW02**, **Microbiology** [Microbiological Parameters] **and Parasitology and Molecular Microbiology**;
2. [Water Pollution Program – Category WPP01] **Categories NPW01 and NPW02**, **Microbiology** [Microbiological Parameters] **and Parasitology and Molecular Microbiology**; and
3. [Solid/Hazardous Waste Program - Category SHW01 Microbiological Parameters] **Category SCM01**, **Microbiology**.

(b) (No change.)

(c) (No change.)

7:18-4.3 Required use of DSAMs

(a) In performing microbiological analysis of a regulatory sample (including, without limitation, analysis of a [PE] **PT** sample by a laboratory that is applying to become certified), a laboratory shall use only:

1.-2. (No change.)

(b) (No change.)

7:18-4.5 Requirements for quality assurance/quality control program

(a)-(b) (No change.)

(c) A laboratory performing microbiological analyses shall conduct the quality control checks specified in the applicable DSAMs, and the following additional checks:

1.-4. (No change.)

5. Each certified environmental laboratory shall satisfactorily analyze one unknown [PE] **PT** sample per year, when available from a Department approved PT **sample** provider, for the parameters within the Categories for which the environmental laboratory has received certification;

6.-20. (No change.)

SUBCHAPTER 5 CHEMICAL TESTING

7:18-5.1 Scope

(a) This subchapter applies to certified environmental laboratories when performing chemical testing on regulatory samples, and to [other] laboratories performing chemical testing on [PE] **PT** samples to become certified. This subchapter applies to chemical testing for parameters in the following categories:

[(1)Drinking Water Program, including testing conducted under the Private Well Testing Act:

i Category SDW02, Inorganic Parameters including Sodium & Calcium;

ii Category SDW04, Inorganic Parameters, Metals;

iii Category SDW05, Organic Parameters, Chromatography; and

iv Category SDW06, Organic Parameters, Chromatography/Mass Spectrometry.

(2) Water Pollution Program:

i Category WPP02, Inorganic Parameters, Nutrients & Demand;

ii Category WPP04, Inorganic Parameters, Metals;

iii Category WPP05, Organic Parameters, Chromatography;

iv Category WPP06, Organic Parameters, Chromatography/Mass Spectrometry;

v Category WPP07, Individual Pesticides (GC, GC/MS, TLC)

(3) Solid/Hazardous Waste Program:

i Category SHW02, Characteristics Testing;

ii Category SHW04, Inorganic Parameters;

iii Category SHW05, Organic Parameters, Preparation and Screening;

iv Category SHW06, Organic Parameters, Chromatography;

v Category SHW07, Organic Parameters, Chromatography/Mass Spectrometry;

vi Category SHW08, Polychlorinated Dibenzodioxins and Dibenzofurans;

vii Category SHW09, Miscellaneous Parameters;

viii Category SHW10, Facility Specific Parameters;

ix Category SHW11, Incinerator Emissions; and

x Category SHW12, Immunoassay.

(4) CERCLA-CLP Program:

i Category CLP01, Multi-Media, Multi-Concentration Inorganic Parameters;

ii Category CLP02, Multi-Media, Multi-Concentration Organic Parameters;

iii Category CLP03, Polychlorinated Dibenzo-p-dioxins and Dibenzofurans;

iv Category CLP04, Multi-Media, High Concentration Inorganic Parameters;

v Category CLP05, Multi-Media, High Concentration Organic Parameters;

vi Category CLP06, Low Concentration Water for Inorganic Parameters; and

vii Category CLP07, Low Concentration Water for Organic Parameters.

(5) Clean Air Program:

i Category CAP01, Atmospheric Inorganic Parameters, Non-Metals;

ii Category CAP02, Atmospheric Inorganic Parameters, Metals;

iii Category CAP03, Atmospheric Organic Parameters; and

iv Category CAP04, Atmospheric Radionuclides.]

(1) Air and Emissions

i. Category AE01: Inorganics – Non-Metals Analysis;

ii. Category AE02: Inorganics – Metals Analysis;

iii. Category AE03: Asbestos Analysis;

iv. Category AE04: Organics Analysis;

v. Category AE06: Air – Laboratory Developed and/or Non-Standard Method;

vi. Category AE07: Air Sample Collection.

(2) CERCLA-CLP Program

i. Category CLP01: NPW – Multi-Concentration Inorganics;

ii. Category CLP02: NPW – Multi-Concentration Organics;

iii. Category CLP03: NPW – Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans;

iv. Category CLP04: SCM - Multi-Concentration Inorganics;

v. Category CLP05: SCM – Multi-Concentration Organics;

vi. Category CLP06: SCM - Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans.

(3) Drinking Water Matrix:

i. Category DW03: Inorganic Parameters;

ii. Category DW05: Asbestos Analysis;

iii. Category DW06: Metals;

iv. Category DW07: Metals – ICP, ICP/MS and DCP;

v. Category DW08: Organic Parameters - Chromatography;

vi. Category DW09: Organic Parameters –Chromatography/MS;

vii. Category DW12: Drinking Water Sample Collection;

viii. Category DW13: Drinking Water – Laboratory Developed and/or Non-Standard Methods.

(4) Solid and Chemical Materials Matrix:

i. Category SCM02: Characteristics of Hazardous Waste and Physical Analyses;

ii. Category SCM03: Inorganic Parameters and Preparation;

iii. Category SCM04: Asbestos Analysis;

iv. Category SCM05: Metals – SCM Preparation Methods;

v. Category SCM06: Metals;

vi. Category SCM07: Metals – ICP, ICP/MS and DCP;

vii. Category SCM08: Organics – SCM Preparation and Screening Methods;

viii. Category SCM09: Organic Parameters - Chromatography;

ix. Category SCM10: Organic Parameters – Chromatography/MS;

x. Category SCM11: Polychlorinated Dibenzo-p-dioxins and Polychlorinated Dibenzofurans;

xi. Category SCM13: SCM Sample Collection;

xii. Category SCM14: SCM – Laboratory Developed and/or Non-Standard Methods.

(5) Non-Potable Water Matrix:

i. Category NPW03: Inorganic Parameters;

ii. Category NPW05: Asbestos Analysis;

iii. Category NPW06: Metals – NPW Preparation Methods;

iv. Category NPW07: Metals;

v. Category NPW08: Metals – ICP, ICP/MS and DCP;

vi. Category NPW09: Organics – NPW Preparation Methods;

vii. Category NPW10: Organic Parameters –Chromatography;

viii. Category NPW11: Organic Parameters – Chromatography/MS;

ix. Category NPW15: Non-Potable Water Sample Collection;

x. Category NPW16: NPW – Laboratory Developed and/or Non-Standard Methods.

(6) Biological Tissue Matrix:

i. Category BT01: Inorganic Parameters;

ii. Category BT02: Metals – BT Preparation Methods;

iii. Category BT03: Metals;

iv. Category BT04: Metals – ICP, ICP/MS and DCP;

v. Category BT05: Organics – BT Preparation Methods;

vi. Category BT06: Organic Parameters –Chromatography;

vii. Category BT07: Organic Parameters – Chromatography/MS;

viii. Category BT08: BT – Laboratory Developed and/or Non-Standard Methods.

(b) (No change.)

7:18-5.3 Required use of DSAMs

(a) In performing chemical analysis of a regulatory sample (including, without limitation, analysis of a [PE] **PT** sample by a laboratory that is applying to become certified), a laboratory shall use only:

1. A DSAM from the applicable Category listed in N.J.A.C. 7:18-5.1(a) for which the laboratory is certified or applying to be certified; or
2. An applicable ATP approved by the Department pursuant to N.J.A.C. 7:18-2.20 for the laboratory and, if applicable, for the facility in question.

(b) – (c). (No change.)

7:18-5.4 Requirements for general environmental laboratory practices

(a) A laboratory shall meet the following requirements with respect to laboratory chemicals, reagents and standards used in chemical testing:

1.–7. (No change.)

8. The laboratory shall initially standardize prepared titrants [used in the analysis of one or more parameters in Categories SDW02, WPP02, SHW04, or SHW09]. The laboratory shall restandardize such titrants at least quarterly. The laboratory shall restandardize purchased titrants at least quarterly. In standardizing or restandardizing a titrant, the laboratory shall use primary or secondary reagents as specified in the applicable DSAM;

9.-10. (No change.)

7:18-5.5 Requirements for quality assurance/quality control program

(a)-(b) (No change.)

(c) A laboratory performing chemical testing shall conduct the quality control checks specified in the applicable DSAMs, and the following additional checks:

1.–4. (No change.)

5. The laboratory shall prepare calibration curves used in the analysis of metal parameters in Categories [SDW02, SDW04, WPP02, WPP04, SHW04, SHW09, and CAP02] **DW06, DW07, DW13, NPW07, NPW08, NPW16, SCM06, SCM07, SCM14, AE02, AE06, BT03, BT04 and BT08**. When the laboratory uses computer-controlled equipment, the laboratory shall follow the requirements for calibration curves in (c)4 above, except that a minimum of one reagent blank and three standards shall be required, and the laboratory shall follow the manufacturer's instructions for calibrating the instrument and shall verify the calibration curve with two calibration check standards, one at the low end of the concentration range and the other at the high end;

6. The laboratory shall analyze blanks at the frequencies required by the applicable DSAM. For methods used in categories [CAP01, CAP02, and CAP03] **AE01, AE02, AE03, AE04, and AE06** that do not address method blank requirements, method blanks shall be performed at a frequency of at least one per batch of 20 environmental samples or less per sample preparation method, or at least once each day of instrument operation, whichever is more frequent. If the method blank result is greater than the detection limit and contributes greater than 10 percent of the total amount of analyte found in the sample, the source of contamination must be investigated and measures taken to eliminate the source of contamination. If contamination is found, the data shall be qualified in the report;
7. For parameters in Categories [SDW02, SDW04, WPP02, WPP04, SHW04, SHW09, CAP01, CAP02, and CAP03,] **DW03, DW05-DW07, DW13, NPW03, NPW05, NPW07-NPW08, NPW16, SCM03-SCM04, SCM06-SCM07, SCM14, AE01-AE04, AE06, BT01, BT03-BT04, and BT08** the laboratory shall conduct quality control (QC) check sample analyses to verify the accuracy of the analytical system for the parameter. For each QC check sample analysis, the laboratory shall record the results of the analysis, the date on which the verification analysis was performed, and the method of verification. The laboratory shall have the analyst who performed the analysis sign the record.

    i.-ii. (No change.)

    iii. For categories [CAP01, CAP02, and CAP03,] **AE01-AE04 and AE06** if a spiking solution is not available, a calibration solution, whose

concentration approximates that of the samples, shall be included in each batch and with each lot of media. If a calibration solution must be used for the QC sample, the client will be notified prior to the start of the analysis. The concentration of the QC sample shall be relevant to the intended use of the data and either at a regulatory limit or below it.

8. In all cases, the laboratory shall conduct matrix spike and matrix spike duplicate sample analyses to verify the accuracy and precision of the DSAM for the applicable parameters in the Categories [SDW02, SDW04, WPP02, WPP04, SHW04, SHW09 CAP01, CAP02 and CAP03] **DW03, DW05-07, DW13, NPW03, NPW05, NPW07-NPW08, NPW16, SCM03-SCM04, SCM06-SCM07, SCM14, AE01-AE04, AE06, BT01, BT03-BT04, and BT08**.

i.–iii. (No change.)

iv. For categories [CAP01, CAP02, and CAP03,] **AE01-AE04, and AE06,** matrix spikes and matrix spike duplicates are not required for those air samples that are introduced directly into an analytical instrument from SUMMA sampling canisters, sorbent tubes, or polyurethane foam (PUF) traps.

9. In all cases, the laboratory shall calculate and document standard deviations for all applicable measurements conducted in Categories [SDW02, SDW04, WPP02, WPP04, SHW04, SHW09 and CAP01, CAP02, CAP03**] DW03, DW05-07, DW13, NPW03, NPW05, NPW07-NPW08, NPW16, SCM03-SCM04, SCM06-SCM07,**

SCM14, AE01-AE04, AE06, BT01, BT03-BT04, and BT08, in accordance with following requirements:

i. The laboratory shall calculate standard deviations for n-1 degrees of freedom (n samples – 1) for all %R and RPD measurements in (c)7 and 8 above. For this calculation in connection with (c)7 above, the laboratory shall use ongoing data collected from the analysis of 10 QC samples; for this calculation in connection with (c)8 above, the laboratory shall use ongoing data collected from the analysis of 10 matrix, matrix spike pairs. For parameters in Category [SDW02 or SDW04] **DW03, and DW05-DW07**, the laboratory shall use samples that have been prepared at the MCL. For other parameters, the laboratory shall use samples that have been prepared to approximate the middle of the concentration range normally encountered in the analysis. The laboratory shall record the theoretical or true value. The laboratory shall calculate and plot the mean value, the warning limits (2 standard deviations), and the corrective action limits (3 standard deviations); and

ii. (No change)

10.-13. (No change.)

SUBCHAPTER 6 RADIOCHEMICAL TESTING PROCEDURES INCLUDING RADON GAS/RADON PROGENY

7:18-6.1 Scope

(a) This subchapter applies to certified environmental laboratories when performing radiochemical testing or radon/radon progeny-in-air on regulatory samples, and to [other]

laboratories performing radiochemical testing or radon/radon progeny-in-air testing on [PE] **PT** samples **or two (2) cross check samples** to become certified. This subchapter also applies to laboratories performing the 48-Hour Rapid Gross Alpha Test for compliance with the PWTA. This subchapter applies to radiochemical testing and radon/radon progeny-in-air testing for parameters in the following categories:

1. Drinking Water [Program including testing conducted under the Private Well Testing Act]**Matrix**:
   i. Category [SDW07] **DW10**, Radiochemistry[:]- Radioactivity & Radionuclide**s** [Parameters]; [and]
   ii. Category [SDW08] **DW11**, Radon in Drinking Water [for the Safe Drinking Water Program]; **and**
   iii. Category DW13, Drinking Water – Laboratory Developed and/or Non-Standard Methods.
2. [Water Pollution Program] **Non-Potable Matrix**:
   i. Category [WPP09] **NPW13**, Radiochemistry[:] - Radioactivity & Radionuclide**s** [Parameters]; [and]
   ii. Category [WPP10] **NPW14**, Radon in [Wastewater for Water Pollution Control Program] **Non-Potable Water**; **and**
   iii. Category NPW16, NPW- Laboratory Developed and/or Non-Standard Methods.

3. [Radon/Radon Progeny-in-Air Program: Category RAP01, Radon/Radon Progeny-in-Air Parameters for the Radon Act Program] **Air and Emissions Matrix:**

i. Category AE05, Radionuclides Analysis;

ii. Category AE08, Radon in Air; and

iii. Category AE09, Radon in Air – Laboratory Developed and/or Non-Standard Methods.

4. Solid and Chemical Materials Matrix:

i. Category SCM12, Radiochemistry – Radioactivity and Radionuclides; and

ii. Category SCM14 – SCM Laboratory Developed and/or Non-Standard Methods.

(b) (No change.)

7:18-6.4 Required use of DSAMs

(a) In performing radiochemical analysis of a regulatory sample (including, without limitation, analysis of a [PE] **PT** sample by a laboratory that is applying to become certified), a laboratory shall use only:

1.-3. (No change.)

(b) (No change.)

SUBCHAPTER 7 TOXICITY TESTING

7:18-7.1 Scope

(a) This subchapter applies to certified environmental laboratories when performing toxicity testing on regulatory samples, and to other laboratories performing toxicity testing on [PE] **PT** samples to become certified.

1.-3. (No Change.)

SUBCHAPTER 8. ANALYZE-IMMEDIATELY **AND CONTINUOUS MONITORIING** ENVIRONMENTAL MEASUREMENTS

7:18-8.1 Scope and general requirements

(a) This subchapter applies to certified environmental laboratories when performing analyze-immediately **and continuous monitoring** environmental measurements on regulatory samples, and to other laboratories performing analyze-immediately **and continuous monitoring** environmental measurements on [PE] **PT** samples to become certified. This subchapter applies to environmental measurements of parameters in the following categories (including but not limited to chlorine dioxide, dissolved oxygen with probe, pH, ozone, residual chlorine, sulfite and temperature):

1. Drinking Water [Program including testing conducted under the Private Well Testing Act] **Matrix** - Category [SDW03] **DW04**, [Inorganic Parameters,] Analyze-Immediately (< 15 min) **and Continuous Monitoring**; **and**
2. [Water Pollution Program] **Non-Potable Water Matrix** - Category [WPP03] **NPW04**, [Inorganic Parameters,] Analyze-Immediately (< 15 min) **and Continuous Monitoring [**– Category WPP04]**.**[; and]

3. [Solid/Hazardous Waste Program - Category SHW03, Analyze-Immediately Parameters (< 15 min).]

(b) In addition to satisfying the applicable requirements of N.J.A.C. 7:18-1 through 3, a laboratory performing analyze-immediately **and continuous monitoring** environmental measurements within the scope of (a) above shall follow:

1. - 2. (No change.)

(c) A laboratory performing environmental measurements of a sample for **analyze-immediately** parameters listed in (a)1[,] **or** 2 [or 3] above shall analyze the sample within 15 minutes after collection. The laboratory may perform the analysis in the field, in an on-site mobile laboratory, or in a facility laboratory (such as a laboratory at a wastewater treatment plant).

7:18-8.2 Requirements for environmental laboratory equipment, supplies and materials

The supervisor shall have control over the equipment, supplies and materials used in analyze-immediately **and continuous monitoring** testing and analysis of regulatory samples. The equipment, supplies and materials shall be sufficient to perform those tests and analyses, and shall meet the requirements of N.J.A.C. 7:18-3, N.J.A.C. 7:18-5 and the applicable DSAM.

7:18-8.3 Required use of techniques specified in DSAMs

(a) In performing an analyze-immediately **and continuous monitoring** analysis of a regulatory sample (including, without limitation, analysis of a [PE] **PT** sample by a laboratory that is applying to become certified), a laboratory shall use only:

1. - 2. (No change.)

7:18-8.4 Requirements for quality assurance/quality control program

(a). – (b). (No change.)

(c) A laboratory performing analyze-immediately **and continuous monitoring** environmental measurements shall conduct the quality control checks specified in the applicable DSAMs.

7:18-8.5 Requirements for records and data reporting

(a) The laboratory shall retain records concerning ["]analyze-immediately["] **and continuous monitoring** analyses. The records to be retained include raw data records, quality control data records, chain-of-custody forms, laboratory reports, and the information required under (d) below. The laboratory shall retain each record for at least five years after the date of the analysis, provided however, that the laboratory shall retain records of analyses for 10 years if the person requesting the analyses has informed the laboratory that the analyses were to be performed because of epidemiological or public health concerns.

(b) – (f) (No change.)

SUBCHAPTER 9 SAMPLE REQUIREMENTS

7:18-9.3 Requirements for inorganic, organic, and radiochemical parameter samples

(a) Regulatory samples to be analyzed for one or more inorganic, organic or radiochemical parameters shall be handled and preserved as follows:

1. Drinking water **program** samples to be analyzed for one or more inorganic or organic parameters shall be handled and preserved in accordance with the applicable requirements of Table 9.1 in N.J.A.C. 7:18-9.4(b);

2. Wastewater **program** samples to be analyzed for one or more chemical parameters shall be handled and preserved in accordance with the applicable requirements in Table 9.2 in N.J.A.C. 7:18-9.4(c);

3. Solid/hazardous waste **program** samples (aqueous **non-potable** matrices) to be analyzed for one or more chemical parameters shall be handled and preserved in accordance with the applicable requirements in Table 9.2 in N.J.A.C. 7:18-9.4(c);

4. Drinking water **program** samples to be analyzed for one or more radiochemical parameters shall be handled and preserved in accordance with the applicable requirements of Table 9.3 in N.J.A.C. 7:18-9.4(d);

5. Wastewater **program** samples to be analyzed for one or more radiochemical parameters shall be handled and preserved in accordance with the applicable requirements in Table 9.4 in N.J.A.C. 7:18-9.4(e);

6. Solid/hazardous waste **program** samples in the form of soils, liquids, sediments, and sludges shall be analyzed and preserved in accordance with the applicable requirements in Table 9.5 in N.J.A.C. 7:18-9.4(f);

7. (No change.)

8. Air **program** samples to be analyzed for one or more chemical parameters shall be handled and preserved in accordance with the applicable requirements in Table 9.7 in N.J.A.C. 7:18-9.4(h).

(b) (No change.)

7:18-9.4 Requirements for sample handling and preservation for specific parameters

(a). - (b). (No change.)

(c) [Wastewater] **Non-Potable Water** samples and solid/hazardous waste **program samples** (aqueous **non-potable water** matrices) shall be handled and preserved in accordance with the requirements of Table 9.2 and the requirements of (c)1 through 3 below. Table 9.2 includes applicable requirements from 40 CFR 136.3 and USEPA's Test Methods for Evaluating Solid Waste – Physical and Chemical Methods, Third Edition 1986, as updated (referred to below as "SW-846"). If there is any conflict between Table 9.2 and the USEPA rule or publication (including any amendments or supplements on which any part of Table 9.2 is based, the USEPA rule or publication shall control.

1.- 3. (No change.)

TABLE 9.2 REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES FOR [WASTEWATER] **NON-POTABLE WATER** SAMPLES AND SOLID/HAZARDOUS WASTE **PROGRAM** SAMPLES (AQUEOUS **NON-POTABLE WATER** MATRICES), EXCEPT RADIOCHEMICAL PARAMETERS

(No change to the table.)

REFERENCES FOR TABLE 9.2 [WASTEWATER] **NON-POTABLE WATER** SAMPLES AND SOLID/HAZARDOUS WASTE **PROGRAM** SAMPLES (AQUEOUS **NON-POTABLE WATER** MATRICES)

(d) (No change.)

(e) [Wastewater] **Non-potable water** samples that are to be subject to radiochemical measurements shall be handled and preserved in accordance with the requirements

of Table 9.4 and the requirements of (e) 1 below. Table 9.4 incorporates requirements from 40 CFR 136.3. If there is any conflict between Table 9.4 and 40 CFR 136.3 (including any amendments or supplements), 40 CFR 136.3 shall control.

1. (No change.)

TABLE 9.4 REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES FOR RADIOCHEMICAL MEASUREMENTS IN [WASTEWATER] **NON-POTABLE WATER** SAMPLES

(No change to the table only header name change.)

(f) Solid/hazardous waste **program** samples (non-aqueous **or solid and chemical materials matrix**) shall be handled and preserved in accordance with the requirements of Table 9.5. Table 9.5 incorporates requirements from SW-846. If there is any conflict between Table 9.5 and SW-846 (including any amendments or supplements), SW-846 shall control.

TABLE 9.5 REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES FOR SOLID/HAZARDOUS WASTE **PROGRAM** SAMPLES (SOILS, LIQUIDS, SEDIMENTS, AND SLUDGES)

(No change to the table only header name change.)

(g) (No change.)

(h) Air **and emissions** samples shall be handled and preserved in accordance with the requirements of Table 9.7. Table 9.7 includes applicable requirements from the methods for the analysis of airborne emissions, listed in 40 CFR 51M, 60A, 61B,

and 63A; and The Compendium of Methods for the Determination of Toxic Organic Compounds in Ambient Air (EPA document EPA/625/R-96/010b). If there is any conflict between Table 9.7 and the USEPA rule or publication (including any amendments or supplements), the USEPA rule or publication shall control.

TABLE 9.7 REQUIRED CONTAINER, PRESERVATION TECHNIQUES, AND HOLDING TIMES FOR AIR **AND EMISSIONS** SAMPLES.

(No change to the table.)

SUBCHAPTER 10 CIVIL ADMINISTRATIVE PENALTIES AND ADMINISTRATIVE ORDERS

7:18-10.4 Classes of Violations

(a) (No change.)

(b) "Moderate violation" means any violation of the requirements of this chapter or of any order issued pursuant to this chapter that directly affects the quality of laboratory data. These violations include, but are not limited to, noncompliance with those requirements pertaining to analytical procedures, quality control, data validity and integrity, chain-of-custody, laboratory performance, data reporting and sample collection, record keeping, and handling and preservation. A failure to make available or to maintain complete records is equivalent to a violation that directly affects data quality, because the Department is unable to verify facts relevant to data quality without adequate records. Violations of specific

provisions of this chapter that are defined as moderate violations include, but are not necessarily limited to:

1.-11. (No change.)

12. N.J.A.C. 7:18-2.13(b), (c), (d), (e), (f), (g), (h) and (i)3, failure to maintain records of [PE] **PT** samples.

13.-17. (No change.)