

02H.0803 Definitions The definition of Commercial Laboratory should be changed to simply carve out Municipal Laboratories (defined separately), rather than carving out municipalities that charge an analysis fee in their pretreatment programs. There may be occasions when municipalities share analytical services because of cost considerations (e.g. analyses requiring expensive laboratory equipment), and that sharing may be accomplished with a monetary charge for the services performed. This reflects the increasing needs for sensitivity in many analyses. Because this is a cost-sharing approach, and not a true commercial operation, it should remain under the certification regulations as a Municipal Laboratory.

Suggested change:

Commercial Laboratory means any laboratory, ~~except Municipal laboratories that charge a cost recover fee or surcharge to operate their Pretreatment Program~~ (but not including Municipal Laboratories), including its agents or employees, which is seeking to analyze or is analyzing samples, including Field Parameters, for others for a fee.

Also in the Definitions, we have a concern about the reference to data alteration whether by intent, negligence or reckless disregard. In light of the use of the term “falsified data” (see 02H.0807(d) – possible laboratory decertification) the reference to negligence should be deleted. If for example data are reported incorrectly by negligence, and the result is untrue, that should have consequences, but it should not be “falsification.” In appropriate cases repeat instances of such negligence could be addressed under 02H.0807(a)(2) (inaccurate data.)

02H.0805 (a)(7) Analytical Quality Assurance and Quality Control Program We recommend that the regulations cross reference the Standard Methods QA/QC provisions as being acceptable. Standard methods QA/QC procedures are the industry standard, proven, and widely accepted.

Suggested change (.0805(a)(7), just before (a)(7)(A)):

The following are requirements for certification and must be included in each certified laboratory’s Quality Assurance and Quality Control program: Quality Assurance and Quality Control program procedures specified in Standard Methods 1020 and 1030 shall be acceptable:

02H.0805 (a)(7)(H) Concentration Range of Standards Please clarify whether the requirement to analyze “one known **second source standard** . . . whenever a new initial calibration curve is prepared” is the only time a second source standard must be analyzed.

02H.0805 (a)(7)(K) Reagent Expiration Dates We are concerned about a laboratory’s ability to properly establish a reagent expiration date in some cases where the manufacturer or supplier does not provide a date. We suggest that the rule should further state:

If the laboratory is unable to determine a proper expiration date for a particular chemical reagent, a one year time period shall be deemed acceptable.

02H.0805 (a)(7)(M) Notification We question the need for notification to the State Laboratory in the event of any sample collection, holding time or preservation exception. In the wastewater industry these exceptions happen periodically, through emergency situations or no particular fault. In light of the requirement to obtain another proper sample if practicable or to otherwise qualify the result, and the fact that the qualifier appears on reporting to the state permit agency, it is more appropriate to require a report to the State Laboratory in the event of repeat problems of the same nature rather than isolated exceptions.

*Suggested change:*

*and the laboratory must notify the State Laboratory of a second or further occurrence of a failure to meet the same or similar procedures within any 12 month period ~~the infraction(s)~~.*

*02H.0805(a)(7)(F) & (g) We agree with the addition of the specific requirement that records must be “legible and safeguarded against obliteration, erasures, overwriting and corruption.” This is an important QC requirement that should be retained in the final regulation.*

*02H.0805(c) Maintenance of Certification We do not understand the reference to a requirement (emphasis added) to “analyze up to four proficiency testing samples per [method] per year.” More than one proficiency sample per year for each method would be excessive, unnecessary and inconsistent with standard practices, and we recommend that the rule simply state that a minimum of one per year must be run.*

*02H.0805(g)(15) The requirement for Field laboratories to submit notification of changes to permits and other factors should refer to “material changes.” We would anticipate minor changes that are not pertinent or necessary for notification.*

*02H.0808 Reciprocity For clarity we suggest that the current reference to certification programs of other states be retained, rather than the draft reference to other certification “bodies.”*