



State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

July 8, 2011

Jerry Saunders, Associate Director,
Water Enforcement Branch (6EN-W)
U.S. EPA Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Subject: Request for DMR-QA Partial Participation Waiver

Dear Mr. Saunders,

This letter is to request a partial waiver for participation in the Discharge Monitoring Report Quality Assurance (DMRQA) program for the State of Louisiana Department of Environmental Quality.

The DMRQA program was designed to demonstrate data quality used to implement the Clean Water Act. Our agency also administers the Louisiana Environmental Laboratory Accreditation Program (LELAP) that serves a similar, more rigorous purpose. Requiring permittees and/or certified laboratories to participate in both DMRQA and LELAP is a duplicative, costly effort. Eliminating this requirement for those permittees who use LELAP certified laboratories to analyze their DMR samples would greatly reduce costs for both the permittees and the State of Louisiana.

For questions or additional information, please contact Sandy Wackett at 225-219-3676 or Paul Bergeron at 225-219-3247.

Thank you in advance for your consideration.

Chris Piehler
Administrator, Inspections Division

Attachment

cc: Craig Weeks, U.S. EPA Region 6 (6EN-X)
Cheryl Sonnier Nolan, Assistant Secretary, Environmental Compliance
Sanford Phillips, Assistant Secretary, Office of Environmental Services

Attachment 1 – DMRQA Partial Waiver

Since its inception, the Discharge Monitoring Report Quality Assurance (DMRQA) program has greatly evolved. One of the most recent changes has been the approval of state certification programs in lieu of participation in the DMRQA program. Although no other states in Region 6 have applied for a waiver, several states from other EPA Regions have been granted either full or partial waivers including California, Nevada, North Carolina, Pennsylvania, South Carolina, Virginia, West Virginia, and Wisconsin. The State of Louisiana Department of Environmental Quality (LDEQ) has an environmental laboratory certification program that meets or exceeds the requirements of the DMRQA program. Louisiana State regulations include requirements for an accreditation program specifically applicable to commercial laboratories that provide analytical data to the Department (Louisiana Administrative Code (LAC) Title 33, Part I, Subpart 3, Chapters 45 – 59). The Louisiana Environmental Laboratory Accreditation Program (LELAP) is a means to ensure the accuracy, precision, and reliability of the data generated, as well as the use of department-approved methodologies in the generation of that data, as per LAC 33:I.4501.A.2. Laboratories seeking or currently holding LELAP accreditation must comply with at least the LAC 33:I.Chapters 45 – 59 requirements. Louisiana offers state and national accreditation for commercial laboratories. Laboratories with national accreditation must comply with the 2003 NELAC standard until the national regulations are updated at which time LELAP will accredit laboratories according to the 2009 TNI standard, in addition to the state accreditation regulations cited herein.

LPDES permittees may elect to perform the analysis of wastewater samples using an in-house laboratory and/or a commercial (third party) laboratory. Only commercial labs are required to be LELAP accredited in order to submit data to the LDEQ per LAC 33:I.4501.A.2 and 4503. Not all laboratories are required to participate in the Louisiana certification program, only those that meet the definition of commercial (third party) laboratories and submit data to the Department per LAC 33:I.4501.A.2 and 4503. Permittees may utilize both in-house and commercial laboratories to complete all of the parameters in their prospective permits. The exemption will apply only to those parameters performed by LELAP accredited laboratories. Permittees will still be required to participate in the DMRQA program for all parameters performed by in-house laboratories.

The state's regulations related to laboratory accreditation address the following topics: inspection (LAC 33:I.4709 and 5101), proficiency testing (LAC 33:I.4711), organization and personnel requirements (LAC 33:I.4901), laboratory facility (LAC 33:I.5103), test methods and procedures (LAC 33:I.5105), laboratory safety (LAC 33:I.5111), quality assurance/ quality control requirements (LAC 33:I.5301 and 5307), equipment and supplies (LAC 33:I.5303), calibration of equipment (LAC 33:I.5305), radiochemistry and radionuclide assay (LAC 33:I.5309), quality assurance for bio monitoring laboratories (LAC 33:I.5311), reports (LAC 33:I.5313), records (LAC 33:I.5315), unacceptable samples (LAC 33:I.5501), maintenance of accreditation (LAC 33:I.Ch 57), and NELAP accreditation process (LAC 33:I.Ch 59).

A listing of accredited laboratories and their accreditation status is maintained by LELAP staff and is available to the public on the LDEQ Laboratory Accreditation website: <http://www.deq.louisiana.gov/portal/DIVISIONS/PermitSupportServices/LaboratoryAccreditation.aspx>. All documents pertaining to accreditation are posted for public review in the Department's Electronic Document Management System (EDMS). EDMS houses a laboratory's scope of accreditation (issued per LAC 33:I.4701.B and LAC 33:I.5109.A) which lists the accredited methods and analytes by category, results of onsite assessments (performed per LAC 33:I.5101), corrective action plans for findings identified during assessments (per LAC 33:I.5107.A), and the results of proficiency studies (required by LAC 33:I.4711). All records are retained for ten (10) calendar years.

The accreditation program requires the analysis of unknown samples (proficiency testing (PT) samples) using the same methodology that would be used on routine samples for LPDES permit compliance per LAC 33:I.4701.A.3, 4703.B, 4709.D, 4711.A, 4711.C, 4711.E, 4711.G, 4711.I, 5091.B.4, 5903.A, and 5909. PT samples must be performed every six months for every field of testing and test category on the laboratory's scope of accreditation. Unknown samples used for proficiency testing are provided by accredited proficiency testing providers per LAC 33:I.4701.A.3, 4703.B, 4711.A, 4711.C, 4711.E, 4711.G, 4711.I, 5091.B.4, 5903.A, and 5909. The fields of proficiency testing are comparable to those covered in the DMRQA program (chemistry, microbiology, and whole effluent toxicity). In the case of whole effluent toxicity, laboratories will still be required to participate in the DMRQA program as there are no separate PT samples currently provided. All analytes covered in the DMRQA program are covered in LELAP. Laboratories shall satisfactorily complete two proficiency test studies offered for each test category accredited within the most recent three proficiency test studies attempted, as per LAC 33:I.4711.E. Any deviations shall require corrective action. On-site inspections/audits are required if the laboratory has accreditation, conducted either by Department LELAP staff or by authorized Department representatives with appropriate laboratory background, per LAC 33:I.4701.A.2, 4705.C, 4709, 4713.B.6, 4715.D.5, 5101, 5109.B, and 5905. Where commercial laboratories are used, it is the permit holder's responsibility to ensure that the laboratory is submitting proficiency test samples for the same methods listed in its permit.

Laboratory data generated by a facility or commercial laboratory that is not accredited or has lost its accreditation will not be accepted by the Department per LAC 33:I.4501.A.2. Laboratories are responsible for informing their clients (permittees) of their accreditation status. Laboratories must display a current certificate at all times, in a location visible to the public per LAC 33:I.5701.A and 5701.B. In addition, the certificate must be removed in cases of suspension, revocation, or discreditation per LAC 33:I.5701.A. The laboratory must also notify, in writing, all clients that utilize the laboratory for analysis of samples and reporting of data to the Department that the laboratory's accreditation has been revoked. Clients must be advised of a change of accreditation status within 10 calendar days for the official notice of the action per LAC 33:I.5705.E. Certification status is also shared with the LPDES program via EDMS. In instances where a permittee is notified of a laboratory losing its accreditation, the facility can locate another accredited laboratory using the LELAP list on the LDEQ web page and then verify the laboratory's accreditation using the scope published in EDMS.

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If a permittee elects to use a commercial laboratory that is not LELAP accredited at the time of sample analysis, the Department can take enforcement actions against the lab (LAC 33:I.5705) and the permittee (LAC33:IX.2701.3).

In support of this waiver request, the Department proposes to submit an annual report to the EPA Region 6 DMRQA Coordinator including the following information: number of laboratories in the accreditation program, number of audits conducted, and status of PT samples analyzed. When substantial changes (i.e. programmatic and/or policy changes, etc.) occur within the accreditation program, LDEQ will notify EPA Region 6 in writing of the change. There are no LDEQ Quality Management Plan implications for the substitution of LELAP for the DMRQA program.