

15A NCAC 02H .0807 DECERTIFICATION AND CIVIL PENALTIES

(a) Laboratory Decertification. The following infractions may result in a laboratory being decertified pursuant to Paragraph (d) of this Rule for any or all Parameters for up to one year:

- (1) Failing to maintain the facilities, records, personnel, equipment, or a quality control program as set forth in these Rules;
- (2) Submitting inaccurate data or other information subject to these Rules;
- (3) Failing to pay required fees by the date due;
- (4) Failing to discontinue supplying data to clients or programs that require monitoring under G.S. 143, Article 21 during periods when a Decertification is in effect;
- (5) Failing to submit a Split Sample to the State Laboratory as requested;
- (6) Failing to use approved methods of analysis;
- (7) Failing to report a change of laboratory supervisor within 30 calendar days;
- (8) Failing to report an analysis of required annual Proficiency Testing Samples submitted by a State Laboratory-approved Vendor within the specified time limit;
- (9) Failing to allow an inspection by an authorized representative of the State Laboratory;
- (10) Failing to supply all records and analytical data requested by the State Laboratory;
- (11) Failing to submit a written notification within 30 days of applicable changes pursuant to Rule .0805(a)(6), (a)(7), and (g)(19) of this Section;
- (12) Failing to meet requirements for sample holding times and preservation;
- (13) Failing to respond to requests for information by the date due;
- (14) Failing to comply with any other terms, conditions, or requirements of this Section or of laboratory Certification;
- (15) Altering or modifying the laboratory's certificate or Certified Parameters Listing;
- (16) Sharing or comparing Proficiency Testing Sample results with other laboratories prior to the study reporting deadline;
- (17) Splitting, sending, or subcontracting a Proficiency Testing Sample or a portion of a Proficiency Testing Sample to another laboratory unless the practice represents the routine analysis and reporting scheme utilized by the laboratories;
- (18) Knowingly receiving and analyzing any Proficiency Testing Sample or portion of a Proficiency Testing Sample from another laboratory for which the results of the Proficiency Testing Sample are intended for use by that laboratory for initial or continued Certification;
- (19) Obtaining or attempting to obtain the assigned value of any Proficiency Testing Sample used to satisfy initial or continued Certification requirements prior to the closing date of the study; and
- (20) Failing to correct findings in an inspection report.

(b) Parameter Method Decertification. The laboratory may be decertified pursuant to Paragraph (d) of this Rule for a Parameter Method for:

- (1) obtaining two consecutive Unacceptable Proficiency Testing Sample results; or
- (2) obtaining two consecutive unacceptable Split Sample results.

(c) Falsified Data. A laboratory that submits Falsified Data or Information may be decertified pursuant to Paragraph (d) of this Rule for all Parameters for up to two years and may be recertified per Rule .0808 of this Section.

(d) Decertification Factors. Decertification for periods up to the maximum, as determined by the Commission or assigned delegate, shall be based on any one or a combination of the factors set forth at G.S. 143B-282.1(b).

(e) Conditions of Decertification.

- (1) A laboratory shall not analyze, test, measure, or monitor any samples regulated under G.S. 143, Article 21 by the decertified Parameter Method.
- (2) A decertified Commercial Laboratory shall supply written notification of its Decertification to clients that are required to report to the Department of Environmental Quality under G.S. 143, Article 21. Within 30 days of Decertification, the decertified laboratory shall provide the State Laboratory with a list of those clients and copies of the notices sent to each.
- (3) A Commercial Laboratory that has received a Parameter Method Decertification shall supply written notification of the Parameter Method Decertification to clients that are required to report to the Department of Environmental Quality under G.S. 143, Article 21. The laboratory may also make arrangements to supply analysis through another laboratory certified by the State Laboratory for the same Parameter(s) during any Decertification period. Within 30 days of Decertification, the laboratory shall supply the State Laboratory with a list of clients involved, copies of the notices

sent to each, and the name and Certification number of the certified laboratory to be used during the Decertification period.

- (4) A Commercial Laboratory decertified for all Parameters shall not subcontract samples for analyses to other certified laboratories during the Decertification period.
- (5) A Municipal or Industrial Laboratory that has received a Parameter Method Decertification shall have samples requiring that Parameter Method analyzed by another laboratory certified by the State Laboratory for the contracted Parameter Method during any Decertification period. Within 30 days of Decertification, the decertified laboratory shall supply the State Laboratory with the name and Certification number of the certified laboratory to be used during the Decertification period.

(f) Civil Penalties. Civil penalties may be assessed against a laboratory that violates or fails to act in accordance with any of the terms, conditions, or requirements of the rules in this Section. Civil penalties up to the maximum may be based on any one or a combination of the factors in Paragraph (d) of this Rule.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.6A; 143B-282.1(b); Eff. February 1, 1976;
Amended Eff. November 2, 1992; December 1, 1984;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. August 1, 2002;
Readopted Eff. July 1, 2019.*