

Revised
October, 1999

NEBRASKA SOIL AND PLANT ANALYSIS LABORATORY ACT

Administration: This Act is administered by the Nebraska Department of Agriculture, Laboratory Division, 3703 South 14th Street, Lincoln, Nebraska. Telephone: (402) 471-2176.

Revisions: The provisions of this Act were last revised during the 1999 session of the Nebraska Legislature.

Rules: A regulation has been promulgated under this Act, known as Title 36, Chapter 1, Nebraska Administrative Code - Nebraska Soil and Plant Analysis Laboratory Act.

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2-3101. Act, how cited. Sections 2-3101 to 2-3110 may be cited as the Nebraska Soil and Plant Analysis Laboratory Act.

2-3102. Terms, defined. As used in the Nebraska Soil and Plant Analysis Laboratory Act, unless the context otherwise requires:

(1) Authorized proficiency testing service means proficiency testing done by the department or any person the department approves to perform proficiency testing;

(2) Department means the Department of Agriculture;

(3) Director means the Director of Agriculture or his or her designated employee, representative, or authorized agent;

(4) Laboratory includes, but is not restricted to, facilities or parts of facilities maintained and utilized for the purpose of performing soil and plant analysis and may be either fixed or mobile;

(5) Person includes an individual, partnership, limited liability company, firm, association, corporation, or body corporate or any officer or member of the same;

(6) Proficiency testing means the process of providing check samples to laboratories, collecting check sample test results from the laboratories, and compiling and analyzing check sample test results; and

(7) Soil and plant analysis means the use of biological, chemical, or physical procedures in determining amounts of elements or compounds in the soil or in plants for the express purpose of providing a basis for plant nutrient application.

2-3103. Registration; application; renewal; fees. It shall be unlawful for any person to operate a laboratory in this state for conducting soil and plant analysis for others unless such laboratory is registered with the department. Application for registration shall be made to the director upon forms furnished by him or her for that purpose. On each initial or renewal application for registration, the director may cause the laboratory facilities, methods, procedures, and equipment to be inspected and shall review the qualifications of personnel. Each application shall specify the types of analysis to be conducted and the names of the analytical methods used. All registrations shall be personal to the holder thereof and shall be nontransferable. Registrations shall expire on June 30 of each year. Each initial and renewal application for registration shall be accompanied by a fee of one hundred dollars.

2-3104. Enforcement of the act; inspection; hindrance; unlawful. The director may appoint qualified personnel to enforce the provisions of the Nebraska Soil and Plant Analysis Laboratory Act and any duly authorized representative of the director may at any

reasonable time enter any laboratory for the purpose of reviewing qualifications of personnel, for examination of equipment in use for soil and plant analysis, and for inspection of the laboratory facilities, methods, and procedures. Every laboratory shall be inspected at least once every two years. It shall be unlawful to hinder, impede, or prevent entry by the director or his or her authorized representatives for the performance of their duties.

2-3105. Proficiency testing; samples; check; report; fees.

(1) Each laboratory shall be required by the department to participate in proficiency testing provided by an authorized proficiency testing service four times each calendar year. The authorized proficiency testing service shall require the laboratory to analyze at least three soil samples and one plant sample supplied quarterly by the authorized proficiency testing service. Each laboratory receiving check samples shall report check sample test results to the authorized proficiency testing service pursuant to the requirements of such service. The authorized proficiency testing service shall submit to the director all check sample test results. The director may require each laboratory to submit to the department a copy of the check sample test results reported to the authorized proficiency testing service. The director shall evaluate check sample test results submitted by each laboratory or the authorized proficiency testing service to determine if the laboratory's analysis is accurate within an acceptable range.

(2) When the department is the authorized proficiency testing service, the director shall fix and collect fees for the proficiency testing, which charges shall not exceed the cost of such testing.

2-3106. Samples; results; rules and regulations; standards; conform. All results obtained from all soil or plant analysis shall be reported in accordance with standard reporting units as established by rule and regulation. Such standard units shall conform insofar as is practical to uniform standards which may be adopted on a regional or national basis.

2-3107. Registration; disciplinary actions; procedure; appeal. If the director determines that a laboratory does not meet the requirements, as established by rule and regulation, with respect to qualified personnel, quality assurance procedures, reporting format, laboratory facilities, equipment, or analytical procedures or methods or that analysis being performed by a laboratory is inaccurate as evidenced by analytical results which are outside of an acceptable range, he or she may issue an order for a hearing pursuant to and in accordance with the Administrative Procedure Act. Following the hearing, the director may suspend or revoke registration or issue a compliance

order against the respondent laboratory. Any person aggrieved by the decision of the director may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act.

2-3108. Director of Agriculture; rules and regulations. The director is authorized and directed to adopt and promulgate rules and regulations for the establishment of minimum standards for laboratories, equipment, personnel, reporting format, and procedures and methods used in soil or plant analysis to ensure that test results will be accurate within an acceptable range and such other rules and regulations as are necessary to the proper administration and enforcement of the Nebraska Soil and Plant Analysis Laboratory Act. In formulating proposed rules and regulations, the director shall consult with representatives of the fertilizer industry, representatives of the laboratories in this state, and the University of Nebraska Institute of Agriculture and Natural Resources. All rules and regulations shall be established in accordance with the procedure defined in the Administrative Procedure Act.

2-3109. Violations; penalty; enforcement. (1) Any person who violates any provision of the Nebraska Soil and Plant Analysis Laboratory Act for which no specific penalty is provided or any rule or regulation made pursuant thereto shall be guilty of a Class IV misdemeanor.

(2) It shall be the duty of the county attorney of the county in which any violation occurs or is about to occur, when notified by the department of such violation or threatened violation, to pursue appropriate proceedings pursuant to subsection (1) or (3) of this section without delay.

(3) In order to insure compliance with the Nebraska Soil and Plant Analysis Laboratory Act, the department may apply for a restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the act or the rules and regulations adopted and promulgated pursuant to the act. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

2-3110. Soil and Plant Analysis Laboratory Cash Fund; created; use; investment. All fees collected by the director under the Nebraska Soil and Plant Analysis Laboratory Act shall be remitted to the State Treasurer for credit to the Soil and Plant Analysis Laboratory Cash Fund, which fund is hereby created. Such fund

shall be used by the department to aid in defraying the expenses of administering the Nebraska Soil and Plant Analysis Laboratory Act. Any money in the Soil and Plant Analysis Laboratory Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capitol Expansion Act and the Nebraska State Funds Investment Act.

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