

LEGISLATIVE BILL 198

Approved by the Governor February 10, 1999

Introduced by Dierks, 40; Baker, 44

AN ACT relating to agriculture; to amend sections 2-3102, 2-3105, 2-3107, and 2-3108, Reissue Revised Statutes of Nebraska; to change provisions relating to soil and plant analysis laboratories; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 2-3102, Reissue Revised Statutes of Nebraska, is amended to read:

2-3102. 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; Director shall mean the Director of Agriculture;

(2) Department shall mean means the Department of Agriculture;

(3) Director means the Director of Agriculture or his or her designated employee, representative, or authorized agent; Person shall include an individual, partnership, limited liability company, firm, association, corporation, or body corporate or any officer or member of the same;

(4) Laboratory shall include includes, but is not be 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; and

(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 shall mean 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.

Sec. 2. Section 2-3105, Reissue Revised Statutes of Nebraska, is amended to read:

2-3105. (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. The director shall institute a system of check samples in which each laboratory shall participate without charge and each laboratory shall be required to analyze at least four multiple soil or plant check samples during each calendar year. The samples shall be supplied by the department, or the director may contract with any person to prepare and distribute the samples. Each laboratory receiving check samples shall report to the department results of analysis within thirty days for all requested parameters. The director shall compile analytical data submitted by laboratories and supply each with a copy of such data but laboratory names or code numbers shall not be used in such compilations.

Sec. 3. Section 2-3107, Reissue Revised Statutes of Nebraska, is amended to read:

2-3107. 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.

Sec. 4. Section 2-3108, Reissue Revised Statutes of Nebraska, is amended to read:

2-3108. 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.

Sec. 5. Original sections 2-3102, 2-3105, 2-3107, and 2-3108, Reissue Revised Statutes of Nebraska, are repealed.