



April 28th, 2017

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
[Commentletters@waterboards.ca.gov](mailto:Commentletters@waterboards.ca.gov) (delivered via email)

**Subject: Comment Letter – ELAP Year 2 ERP Report**

Members of the State Water Resources Control Board:

Thank you for the opportunity to provide comments for the May 3, 2017 public workshop in response to the latest Expert Review Panel's (ERP) year two final report assessment of progress and final recommendations for the State of California's Environmental Laboratory Accreditation Program's (ELAP) and their mission to adopt the 2016 *The NELAC Institute* (TNI) regulations.

#### **Background**

The City of Palo Alto's lab supports a Palo Alto drinking water system that serves a residential population of approximately 67,400 with 20,000 service customers and the wastewater treatment system that serves approximately 220,000 people in six agencies, including Palo Alto, Mountain View, Los Altos, Los Altos Hills, Stanford University, and the East Palo Alto Sanitary District. The Palo Alto laboratory employs eight staff members (three lab technicians, three chemists, a senior chemist, and a lab manager). The laboratory is located onsite at the wastewater treatment plant, where approximately 20 million gallons of wastewater is treated each day. The laboratory supports the compliance for NPDES permits for the wastewater operation as well as for recycled water, industrial waste, potable water, process samples and special studies. The laboratory is certified for over 30 methods for wastewater and drinking water, including 9 fields of testing in the areas of microbiology, inorganic chemistry, toxic chemicals, volatile organics, and whole effluent toxicity.

#### **Overview of Concerns**

At the October 6<sup>th</sup>, 2016 workshop, the State Water Board listened to a packed room of concerned California ELAP accredited laboratory personnel, all frustrated about how the full adoption of TNI would negatively affect their jobs. The general consensus with all of the speakers was that this type of full scale program would place a great deal of emphasis on documentation rather than the quality of the data, adversely affecting staffing, budgets, training and efficiency for the majority of these non-commercial labs. By the end of the discussions it was pretty apparent that although worried about the repercussions of a "full TNI" adoption your staff had left us feeling somewhat optimistic and reassured that ELAP would work together with the ELTAC (Environmental Laboratory Technical Advisory Committee), to come up with a solution. The solution, you advised was for ELAP and ELTAC to work through all of the TNI regulations and include only the essential elements from the standards that actually protected data quality and to avoid those that really did not improve the quality and were not practical for California's laboratories.

After many discussions between ELTAC and ELAP regarding possible modifications to the current TNI regulations (see attachment #1), ELTAC voted in favor of modifying and in some cases deleting certain sections. As a member of the lab committee it was comforting to know that these decisions were being discussed with both parties and that our highly qualified committee's voice would be heard. After our last update from ELTAC the outcome of those meetings did not seem to align with the majority of opinions on that committee, evident in ELAP's direction to retain the full 2016 TNI requirements except two (having labs analyze one set of proficiency annual tests instead of two and the education/experience criteria for laboratory supervisors in California). In the ERP two year report it was stated that "ELAP cannot neglect to consider the laboratory perspective in ELAP policy decisions", which seemed like this was already being done. The fact that ELAP decided to add clarification to 58 pre-existing requirements and ignore the recommendations from ELTAC to delete certain TNI sections, makes it seem that the committee member's votes did not count.

It is difficult to fathom how the recommended "full TNI", adoption will take place without elevating accreditation fees even more, given the number of requirements and assessments. The regulations alone are already going to add costs to the laboratories, by forcing the laboratories to buy their copyrighted protected templates and regulations not to mention the cost of any future regulations we may need. The ERP identified ELAP as having lack of staffing, funding and training resources currently to maintain their program and that is not even the start of what is going to be needed for the future transition or sustainability of this type of program. ERP has suggested in their latest report that ELAP will more than likely have to outsource for their third party onsite assessments due to backlogs, field of testing [FOT] assessments and cross training, even though increased fees have already gone into effect to help pay for them. The "full TNI" requirements will definitely drain our laboratories resources without any real benefit to the quality of the data.

The City of Palo Alto has five major concerns with the outcome of "full TNI"; (1) increased cost for ratepayers to implement the changes with little added benefit, (2) increased documentation that is not likely to improve data quality, (3) the need to send out samples to contract commercial laboratories to address the increased documentation requirements and costs of the proposed changes, (4) burdens on existing resources and already busy staff to implement the proposed changes with efficiency loss and increased mistakes by analysts and reviewers due to changing workloads; and (5) the possibility of having laboratory closures in California.

Our laboratory wants to provide excellent service to the water, wastewater, and recycled water decision makers in the operational, regulatory, and environmental protection community, but agrees with ELTAC that not all of the proposed TNI requirements are required in order to achieve this. We recognize that change is inevitable and that ELAP is doing their best to make those changes align with the goals set by the ERP, but we just want the outcome to make sense for California. "Full TNI" has policies and regulations geared too much larger commercial labs where they can independently make decisions for some of the regulations like purchasing and security where that level of detail may be necessary. For Palo Alto's sized laboratory and others like it, some of the TNI requirements in fact will take away efficiency and quality by redirecting focus to areas that will not necessarily improve our quality of data. I encourage the board to listen to the ELTAC members and laboratory communities on May 3<sup>rd</sup> so that the best choice can be made for the quality of California's data and resources.



For more information please contact me at [Samantha.bialorucki@cityofpaloalto.org](mailto:Samantha.bialorucki@cityofpaloalto.org).

Thank you for your consideration,



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Manager of Laboratory Services / ELAP Designated Laboratory Director

NPDES Permit # CA0037834<sup>1</sup>

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<sup>1</sup> NPDES Board Order R2-2014-0024 (NPDES Permit No. CA0037834); pH Cease and Desist Order R2-2015-0011 (NPDES Permit No. CA0037834); Board Order R2-2016-0008 Alternate Monitoring and Reporting Requirements to Support SF Bay RMP (NPDES Permit No. CA0037834); Watershed Nutrient Order R2-2014-0014 (NPDES Permit No. CA0038873); Watershed Mercury and PCB Order R2-2012-0096 (NPDES Permit No. CA0038849); Recycled Water Board Order R2-93-160; Drinking Water System #4310009; ELAP Certification No. 1087; EPA Lab Code CA00179

# Attachment 1

**PROPOSED MODIFICATIONS TO TNI VOLUME 1  
PREPARED BY: ENVIRONMENTAL LABORATORY TECHNICAL ADVISORY COMMITTEE**

TNI Section	Summary	Modification	Rationale	# in Agreement
<b>Module 2</b>				
2.0	references other documents	defer to SAPC to judge if the documents are indispensable	not indispensable	9 (in favor) 2 (against) 1 (absent)
4.1.4	requires lab to make a list of potential conflicts of interest	delete	no definition of what conflict of interest is. Covered under mandatory ethics training	8 (in favor) 2 (against) 2 (absent)
4.1.5 (b)	requires lab to have documentation ensuring mgmt. and personnel are free from undue influence	delete	too broad	8 (in favor) 2 (against) 2 (absent)
4.1.5 (c)	requires procedures for protecting customer information	modify - strike "have arrangements to"	is necessary to avoid fraudulent actions	9 (in favor) 1 (against) 2 (absent)
4.1.7.1 (d)	additional requirements for lab	delete	outside regulatory authority of ELAP	9 (in favor) 1 (against) 2 (absent)
4.1.7.2 (d)	requires that separate facilities have separate technical managers	delete	Difficult for 1-2 person lab to comply with. Problem with "documented training"	10 (in favor) 2 (against)
4.1.7.2 (e)	requirements for when tech. mgr. is out for extended period of time	delete	expense to muni labs, cause small labs to revoke ELAP cert (labs won't be overseen by the state), doesn't solve the problem	8 (in favor) 4 (against)
4.3	document control	delete timeframe for notification, require an alternate when on leave delete and replace with current ELAP language delay for 3 years	ELAP language is more stringent excessive effort	10 (in favor) 2 (against) 11 (in favor) 1 (abstained)



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4.5 etc.	requires all labs used for subcontracting to be ISO certified	modify - striking ref. to ISO and replacing with CA standard any place where ref to ISO, replace with Title 22	CA certified labs should be able to send samples to other CA certified labs	10 (in favor) 2 (against)
4.6	requires documenting purchasing process for services and supplies	delete	methods already have policies to ensure quality of supplies	9 (in favor) 2 (against) 1 (abstained)
4.8, 4.11, 4.12, 4.13, 4.15	documentation requirements	delay - ELAP provide training and support documents	imperative for implementation	12
4.14.5 (c)	requires annual internal audits	modify - require internal audits during years ELAP is not performing assessment	excessive effort	9 (in favor) 2 (against) 1 (abstained)
5.2.6 (all)	requires B.S degree as a condition of being technical manager or lab director	delete - use current CA language	requiring a B.S. degree eliminates qualified candidates. CWEA/AWWA certificates would not be valid	8 (in favor) 3 (against) 1 (abstained)
5.4	conditions for approval of use of non-standard methods	delete	labs should not be able to use non-standard methods without prior approval	8 (in favor) 2 (against) 1 (abstained) 1 (absent)
5.6.2.1 and related sections	requirements for calibration labs	if not deleted then modify - add ELAP/SAPC/EPA can approve methods	non-standard methods should require approval from State Agency	9 (in favor) 2 (against) 1 (absent)
5.6.3.4	requires documentation of procedures for transport and storage of reference standards	delete	not applicable - ELAP labs are not calibration labs	8 (in favor) 3 (against) 1 (abstained)
5.6.4.1	sentence that proceeds subsection (a) is broad	delete	already in the method	7 (in favor) 5 (against)
5.6.4.2	sentence that proceeds subsection (a) is broad	delete sentence that precedes subsection (a)	too broad	7 (in favor) 4 (against) 1 (abstained)
		delete sentence that precedes subsection (a)	too broad	7 (in favor) 5 (against)

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5.6.4.2 (f)	allows labs to use standards after expiration date if reliability is verified	modify - delete "if reliability is verified"	standards should not be used after expiration date	3 (in favor) 8 (against) 1 (abstained)
5.8.9 (c)	requires documentation for procedure of sample disposal	delete	outside regulatory authority of ELAP	8 (in favor) 4 (against)
<b>Module 4</b>				
1.5.2.1.1 (Notes)	gives lab the option to use EPA MDL procedures	modify - require use of EPA MDL procedure		
1.7.1	requires labs to use a minimum number of calibration standards	delete last sentence of first paragraph 1.7.1	method already specifies the minimum number of calibration points	8 (in favor) 3 (against) 1 (abstained)
1.7.1.1 (f)	requires surrogates for all samples, standards, and blanks	modify - only when the method does not specify then the section applies	method already specifies when surrogates are appropriate	8 (in favor) 2 (against) 2 (absent)
1.7.2.3.3	requires documentation of procedure for data reduction	delete	too specific, should be broad	10 (in favor) 2 (against)
1.7.2.4	allows LCS to have certain # of analytes outside of acceptance range of method and still report results without corrective action	modify - strike "such as use of linear regression"	any failure should require investigation/corrective action	4 (in favor) 8 (against)
1.7.3.2 (b)		delete		
<b>Multiple Modules</b>				
Module 1 - 4.2.4, 4.3.5, 4.3.7 (a,b,c); Module 2 - 5.9.3; Module 4 - 1.5.2.1, 1.5.2.2	requires that lab determine an LOQ for every analyte	remove any reference to LOQ and replace with something more specific to CA regulatory agency needs (for example DLR for DW) ELTAC will work with SAPC	confusing and non-productive	8 (in favor) 2 (against) 2 (absent)



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TNI Section	Summary	Modification	Rationale	# in Agreement
<b>Module 2 - 3.1</b> <b>Module 4 -</b> 1.5.2.1.2, 1.5.2.2.2, 1.7.1.2	verification requirements	remove any reference to MDL as currently specified; work with SAPC to come up with solution that more adequately meets their needs		8 (in favor) 2 (against) 2 (absent)