



# CVCWA

## Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies



TERRIE MITCHELL – Chair, Sacramento Regional CSD  
TERESA TANAKA – Secretary, Calaveras County WD

CASEY WICHERT – Vice Chair, City of Brentwood  
ROBERT GRANBERG – Treasurer, City of Stockton

October 29, 2015

*Sent by electronic mail only*

State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100  
[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

**RE: 11/4/15 BOARD MEETING: INFORMATIONAL ITEM #4 – FINDINGS AND RECOMMENDATIONS OF THE EXPERT REVIEW PANEL OF THE STATE OF CALIFORNIA ENVIRONMENTAL LABORATORY ACCREDITATION PROGRAM**

Dear Board Members,

Attached is the Central Valley Clean Water Association's (CVCWA) Comment Letter concerning Informational Item #4 – Findings and Recommendations of the Expert Review Panel of the State of California Environmental Laboratory Accreditation Program (ELAP). CVCWA's members have laboratories that are accredited by ELAP that conduct high quality analysis for permit compliance and operational purposes and will be impacted by changes to this program. According to the expert panel report, a large number of the ELAP program's laboratories are wastewater treatment and/or municipal facilities. Many of these laboratories conduct a small number of analysts. CVCWA wants to ensure that any changes made to the program: (1) result in the continued production of high quality analysis of parameters by our members' laboratories needed for the compliance and operation of our member's facilities; (2) does not result in unnecessary burdens or cost to our members; (3) maintains viable and cost effective means to comply with our permit monitoring requirements.

Our attached comment letter was originally submitted to the Southern California Coastal Water Research Project (SCCWRP) for consideration by the expert panel. Unfortunately, our concerns have not been addressed. Specifically, CVCWA recommends:

1. That rather than the wholesale adoption of either the International Organization for Standardization (ISO/IEC) 17011 standard, or the National Environmental Laboratory Accreditation Conference (NELAC) 2009 standard for management and accreditation, the current

ELAP system be modified to account for the varying complexities and sizes of laboratories under these programs.

2. The State Water Board convene a representative stakeholder group to assist the Board in improving the ELAP system and developing appropriate standards for the varying laboratory types under this program. CVCWA recognizes that the State Water Board is reinstating the Environmental Laboratory Technical Advisory Committee (ELTAC); however, a technical advisory group is not the same as a stakeholder group which would have a better understanding of the laboratory functions in relation to its overall purpose (such as wastewater treatment), needs (ex., permit requirements), and management.
3. The SWB reconsider allowing third party auditors to be hired directly by laboratories due to conflict of interest's considerations and the potential for inconsistencies.

Thank you for your consideration. Please see the attached comment letter. Please feel free to contact me at [eofficer@cvcwa.org](mailto:eofficer@cvcwa.org) or at (530) 268-1338 if you wish to discuss our comments.

Sincerely,



Debbie Webster,  
Executive Officer



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## Central Valley Clean Water Association

*Representing Over Fifty Wastewater Agencies*

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**MICHAEL RIDDELL** – Chair, City of Riverbank  
**CASEY WICHERT** – Secretary, City of Brentwood

**TERRIE MITCHELL** – Vice Chair, Sacramento Regional CSD  
**TONY PIRONDINI** – Treasurer, City of Vacaville

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October 13, 2015

Dr. Steve Weisberg  
Southern California Coastal Water Research Project  
3535 Harbor Blvd., #110  
Costa Mesa, CA 92626  
[steve@scwarp.org](mailto:steve@scwarp.org)

**SUBJECT:** Findings and Recommendations of the Expert Review Panel of the State of California Environmental Laboratory Accreditation Program

Dear Dr. Weisberg and Expert Review Panel Members:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to provide comments on the Findings and Recommendations of the Expert Review Panel of the State of California Environmental Laboratory Accreditation Program (Draft ELAP Report). Representatives from CVCWA member agencies are active stakeholders on the Stakeholder Advisory Committee, and through them CVCWA has been following the Expert Review Panel, and their review of the ELAP program.

CVCWA is a nonprofit association of Publicly Owned Treatment Works (POTWs) located throughout the Central Valley whose primary mission is to represent wastewater agencies in regulatory matters while balancing environmental and economic interests. CVCWA's members, both large and small agencies, have laboratories that are subject to ELAP, and as such, may be directly impacted by the findings and recommendations contained in the Draft ELAP Report.

Overall, CVCWA appreciates the Expert Review Panel's efforts. However, CVCWA is concerned that the Draft ELAP Report is unnecessarily critical of ELAP as a whole, and fails to acknowledge that many of the "management" recommendations have already begun to occur. Further, while CVCWA recognizes that improvements in ELAP are necessary, CVCWA does not believe that the program in its entirety is broken and in need of wholesale change. Specific comments on the recommended solutions are provided here.

#### **A. Establishment of a Management System**

The Draft ELAP Report recommends that ELAP establish a management system based on one of two standards, either the International Organization for Standardization (ISO/IEC) 17011 standard, or the National Environmental Laboratory Accreditation Conference (NELAC) 2009 standard. CVCWA respects the management systems established in both of these credible programs. However, ELAP is now subject to new management, and the new management should have flexibility for improving its management system rather than replacing its current management system. Moreover, CVCWA is concerned that adoption of a completely new management system will create upheaval and will not result in the intended outcome of improvements with ELAP.

With respect to the Draft ELAP Report's recommendations on Operational Processes, CVCWA agrees with the document control, record-keeping, and quality system recommendations, and believes these to be appropriate. For enforcement, CVCWA is concerned that ELAP's current authorities may not support the types of enforcement actions referenced in the Draft ELAP Report. Also, CVCWA agrees that enforcement should be taken against laboratories that blatantly violate ELAP regulations. However, CVCWA is concerned, especially for small municipal laboratories, that inadvertent mistakes could result in serious enforcement actions. Thus, CVCWA supports the statement that ELAP's primary purpose and goal should be to ensure compliance with ELAP requirements, and that revocation of a laboratory's accreditation should only occur when violations are purposeful, repetitive in nature after receiving warnings, or significantly egregious in nature.

#### **B. Adopt Laboratory Accreditation Standards**

CVCWA agrees that ELAP should have clear standards for laboratory accreditation. From the three options provided, CVCWA supports option 2 – modification of an existing standard. As stated previously, ELAP currently has good standards in place. Further, the standards need to be California based, and not from a third party. Notably, there are laboratories throughout California of different sizes that perform different functions. We believe that ELAP's laboratory accreditation standards need to account for these many differences. For example, for some very small municipal laboratories, the only tests run are very simple straightforward analysis for simple constituents like pH and temperature. Accordingly, the standards applied to laboratories

should account for and address the various complexities of analytical work being done. CVCWA does not support the Draft ELAP Report's implication that a single standard would not be overly burdensome to small laboratories, and in CVCWA's experience with small laboratories, the reporting associated with the standards recommended in the Draft ELAP Report would be overly burdensome.

Moreover, CVCWA supports use of a representative stakeholder process to develop new and revised standards. The Draft ELAP Report criticizes such an approach because of the time associated with stakeholder processes and because, "in the end, it resulted in an imperfect standard." First, there are no perfect standards, regardless of how developed. Second, while it may take more time, CVCWA believes that it will result in a better end product, and that the representative stakeholders will be vested in its success.

#### **C. Ensure Relevant Analytical Methods**

CVCWA agrees that the test methods referenced in title 22 of the California Code of Regulations, section 64811, are outdated and need to be revised. However, although the regulations may be outdated, in CVCWA's experience, ELAP is still enforcing appropriate federal regulations, and requiring application of appropriate analytical methods. For example, as applied to wastewater, CVCWA supports changes to the regulations that clarify title 40 of the Code of Federal Regulations, Part 136, (40 CFR Part 136) applies to wastewater analysis – unless there is an approved alternative test procedure. CVCWA is somewhat concerned with the Draft ELAP Report's recommended "ideal solution" as it could result in analytical methods being applied to wastewater that are not consistent with 40 CFR Part 136. Moreover, while amending regulations can take time and are subject to a certain process, the Administrative Procedure Act process is there to ensure that regulations are adopted openly and in a transparent manner. The Draft ELAP Report's short-term solution circumvents this open process, and thus CVCWA does not support this proposed short-term solution.

#### **D. Expand Resources**

CVCWA understands and agrees that the ELAP program is currently underfunded and in need of additional revenue to support its current efforts. However, in the future, any increases should not be made until the fee structure is revised to be more equitable. Until ELAP addresses some of the management system issues identified in the Draft ELAP Report, CVCWA believes it is premature to impose future ELAP fee increases for activities that may or may not be implemented. After the management system issues have been addressed, ELAP will then have a better understanding of the amount of fees needed to support its activities.

With respect to other more specific recommendations in this section, CVCWA supports the need for enhanced training for the program as a whole. However, training should not be limited to either the ISO or The NELAC Institute standards.

CVCWA further supports the use of remote, augmented, or distance on-site assessments for some laboratories. Specifically, CVCWA believes that for laboratories that have a history of good performance, there should be streamlined audit processes if the laboratories have not had any significant changes in staff or types of analysis being conducted. However, if there are significant changes, then on-site audits would be more appropriate.

CVCWA does not support the use of third party auditors hired directly by laboratories due to inherent conflict of interest. Additionally, third party auditors under a variety of contracts will likely result in inconsistencies between audits. The use of third party auditors is appropriate only when ELAP already has established a management system and ELAP has control over its third party auditors. If third party auditors are hired under contract to ELAP and provide audits consistent with ELAP's audit procedures, then use of third party auditors is appropriate to assist ELAP with any backlog. Additional cost associated with the use of third party auditors should not be a burden to the laboratories.

#### **E. Enhance Communications**

CVCWA supports the need for enhanced communication with the laboratory community. To develop the communications plan, CVCWA recommends that ELAP include stakeholders in plan development. This will help to ensure that the laboratory community needs are met. Further, when seeking stakeholders to assist in development of the plan, ELAP should take special care to ensure that there is a fair representation of different types of laboratories (i.e., commercial versus public agency labs), and of different sizes. The communication needs for the different types of laboratories will vary and thus, it will be important to seek input from all types.

CVCWA appreciates the opportunity to provide these comments. Please contact me at (530) 268-1338 or [ecofficer@cvcwa.org](mailto:ecofficer@cvcwa.org) if you have questions with respect to the information provided above.

Sincerely,



Debbie Webster,  
Executive Officer