



South Orange County Wastewater Authority



September 12, 2016

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

SENT VIA EMAIL

Subject: Comment Letter – ELAP Regulations Development/Laboratory Standard

To the Members of the State Water Resources Control Board,

The South Orange County Wastewater Authority (SOCWA) is a Joint Powers Authority consisting of ten member agencies in South Orange County including Moulton Niguel Water District, South Coast Water District, Irvine Ranch Water District, Santa Margarita Water District, Trabuco Canyon Water District, El Toro Water District, Emerald Bay Service District, City of Laguna Beach, City of San Clemente, and City of San Juan Capistrano (SOCWA's "Member Agencies"). SOCWA and its member agencies operate five laboratories and four of the laboratories have five or fewer employees.

On September 6, 2016 the State Board provided notice of a Workshop on proposed changes to the laboratory accreditation regulations. The deadline for the submittal of comments is noon, Friday September 16, 2016 which provides only nine and a half working days to make comments, this short comment period is highly unusual and burdensome to effected parties. The focus of the proposed changes is the Environmental Laboratory Accreditation Program's (ELAP) proposal to use Volume 1 of the National Environmental Laboratory Accreditation Conference or The NELAC Institute's (TNI) 2016 documents as the basis for laboratory accreditation. ELAP is not only rushing the one size fits all TNI process through regulatory process they are also doing so in opposition to recommendations of the Environmental Laboratory Technical Advisory Committee established to provide guidance in this rule making process. SOCWA would like to submit the following comments to the Water Board for consideration on this topic.

- 1) California has more accredited environmental laboratories than any other state. These laboratories are huge and important resource for the people of California for the protection of human health and the environment which should be encouraged to grow. Laboratories accredited by ELAP with only one or two full time staff members are very common and most laboratories have five or fewer employees. There are many smaller laboratories in remote public facilities providing the front line public health services. We believe that the State Water Board should do all it can to encourage to existence and expansion of environmental laboratories in general and those associated with utilities in smaller disadvantage communities in more remote locations. However er believe these proposed changes will have the opposite effect.
- 2) The scope and potential consequences of the proposed changes are enormous. ELAP is proposing to completely change how it accredits laboratories. Such a momentous endeavor has to be addressed with great care and thoroughness or many cost effective

smaller public laboratories providing local public health protection will be forced to close due to the high cost of implementing these proposed regulations. Experience in other states, such as Florida and New York where all accredited laboratories were required to be TNI compliant, has shown that many smaller utility laboratories closed as a result. The effects TNI adoption has had in other States should give the State Board pause as it looks to move forward with any proposal to incorporate TNI documents into California's accreditation standards.

- 3) It should be noted that the actual TNI documents, detailing the proposed process are not publically available. They have to be purchased from TNI for one hundred and thirty dollars (\$130). It seems patently unfair to require the public agencies to purchase documents in order to simply comment on a proposed change to State regulations. This is contrary to all past practice where the public has had access to proposed changes in language. It is hard to see how this is consistent with the intent of the Administrative Procedures Act (APA) which attempts to maximize openness and transparency of the rule making process. Indeed, requiring the purchase of documents would appear to be contrary to the requirements of the APA. Most small public agency procurement processes takes longer than the ten day window for public comment for these proposed changes, so that by the time many agencies purchased the TNI document the comment period would be closed.
- 4) The 2016 TNI document is nearly 200 pages long. It seems entirely unreasonable to expect potentially impacted parties to first purchase this document, read it, and then prepare intelligent comments in such a short period of time. The majority of laboratories accredited by ELAP have a small number of employees. It is extremely difficult for laboratories such as these to commit the resources needed to read such a large document at all, with much less in just a few days.
- 5) We would strongly urge the State Board to postpone this workshop and significantly extend the comment period. It is also extremely important the proposed documents that would form the core of ELAP's new regulations be made publically available for free.

In summary, we strongly oppose pushing the proposed ELAP changes forward at this time. We do not see the need for this one size fits all approach the laboratory quality control proposed by ELAP. We believe, as has happened in other States, many very effective small public laboratories, serving important public health functions in the State, will be closed due to the cost of implementation of these requirements.

Sincerely,

South Orange County Wastewater Authority



Betty Burnett
General Manager

cc. File