

Laboratory Certification Standards Review Council Meeting Minutes From 08/10/2010

Attendance

Council Members: Dave Kliber (Chair), Sue Hill (Vice-Chair), Chris Groh, Randy Thater, Judy Tholen.
Absent: Steve Jossart, Kirsti Sorsa.

DNR Staff: David Webb, Rick Mealy

Others in Attendance: Paul Harris (Davy Labs), Tom Priebe (Northern Lake Service).
Tom Hungerford and Heather Smalley (S-F Analytical) *via LiveMeeting link*

Summary and Action Items

At this meeting the Certification Standards Review Council:

- o approved minutes of its May 4, 2010 meeting,
- o reviewed program audit performance,
- o tentatively scheduled the Council's next meeting for Tuesday, November 9, 2010.

Agenda Items

I. Check in/Agenda Repair

- A. No modifications to the agenda were required.
- B. Council President Dave Kliber has indicated that he will be about 30 minutes late due to traffic.

II, Review and Approval of Draft Minutes from May 4, 2010 Meeting

- A. A motion (*Thater/Groh*) to approve the minutes with several minor changes discussed during the meeting was approved 4-0-3. A note was also made to ensure that the meeting agenda contained the correct meeting address.

III. Program Audit Status Report- for FY10 Year-to-Date

- A. Before discussing program metrics, Dave Webb reported to the Council the status of the program vacancy. As has been discussed, the program could benefit from some assistance, but not to the extent that hiring an FTE is in order. Consequently, the two options on the table have been hiring an LTE or contracting for services. Due to difficulties in hiring even LTEs, Webb feels that contracting is the best approach. It is his intent to hire a contract auditor to perform 12-18 small lab audits per year, mostly in the southwestern region of the state.
- B. Regarding program metrics, Webb reported that there has been a slug of audit closures recently. Webb further noted that as of a few days ago, through the Department's performance review process, he had developed a plan to address the late report concerns. Webb noted that some people in the program are working as diligently as they are able, but still cannot meet the 30 day report requirement. There are a handful of reasons for late reports, but many are just a week or two short of 30 days. Most visible, however are the few that are embarrassingly longer than 30 days. Webb stated that that would change.
- C. Rick Mealy presented Council members with program audit statistics for the fiscal 2010 and the current fiscal 2011, as well as backlog information.
- D. Mealy highlighted the following aspects of program performance for fiscal 2010:
AUDIT GOALS
 - ▶ For the Commercial/Public Health sector, while closures slightly exceeded program goals, audits (-11%) and reports (-29%) are significantly less than anticipated.
 - ▶ Municipal/Industrial audit and report numbers (-6% and -7% respectively) were just slightly short of goals. Closures ended at 13% below planned numbers.
 - ▶ The program has performed eight (8) unanticipated audits due to new lab applications. In addition, two (2) required a follow-up audit. These audits make it more difficult to achieve our annual targets. In fact, for the commercial/health lab sector, these "unplanned" audits represented 23% of the annual audit goal.

REPORT TURNAROUND TIME (TAT)

- ▶ Only 57.4% of reports released in FY2010 have been issued w/in 30 days. Since 9/1/2008, for all reports issued, the program stands at 62% within the 30 days specified in NR 149.31.

- ▶ Mealy noted that while report turnaround time has struggled, there has been a tradeoff as efforts have been focused on closing old cases.
- ▶ Using a 45 day benchmark for report turnaround, compliance level is at 75% (60% Commercial/Health; 79% Municipal/Industrial).
- ▶ Using a 60 day benchmark for report turnaround, compliance level is at 84%; 16% of reports still do not meet the 30 day window.
- ▶ 10% of all 2010 reports took at least 90 days (from the audit) to release.
- ▶ The "national" standard (NELAP/TNI) is a 30-day TAT for audit reports.

BACKLOG AGING REPORT

- ▶ For Commercial/Public Health labs, the plot shows us about 6 behind pace. The difference between labs due in FY11 and the FY11 goal gives us little room to move. There are only 4 "overdue" labs; historically the program had as many as 15-20 at this point.
- ▶ The Municipal/Industrial labs look to be in good shape with only a couple of "overdue" labs (previously 25-35).

FY2010 Final Cumulative Totals

CENTRAL OFFICE		REGIONAL			
Total YTD	Goals	Total YTD	Goals	<i>(Goals based on audit every 3 years)</i>	
Audits	31	35	91	97	
Reports	25	35	90	97	
Closures	36	35	84	97	
Reports Due	16		5		
Open Cases	31		51		

FY2010 Final Quarterly Totals

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
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CENTRAL OFFICE

Audits	7	7	5	12
Reports	8	6	4	7
Closures	17	10	2	7

	AUG	NOV	FEB	MAY
Pending Reports	7	8	8	12
Open Cases	23	21	19	21

REGIONAL

Audits	25	25	20	21
Reports	20	25	23	23
Closures	21	14	26	23

Pending Reports	8	9	11	9
Open Cases	40	56	63	55

Total Labs by Responsibility		8/1/09	2/1/09	5/1/08	11/15/07	8/1/07
CO	Central Office	103	109	110	113	118
RC	Regional/Central	----	----	----	----	----
NE	Northeast	60	62	65	65	66
NO	Northern	29	29	31	31	31

WC	West Central	63	60	62	61	61
SC	South Central	71	74	75	75	75
SE	Southeast	68	69	69	69	69
Total Regional		291	295	302	301	302
Total Audit Responsibility		394	404	414	420	423
O	Other/Reciprocity	8	8	7	7	8

FY2011 Cumulative Totals

CENTRAL OFFICE		REGIONAL			
Total YTD	Goals	Total YTD	Goals	(Goals based on audit every 3 years)	
Audits	0	35	9	97	
Reports	3	35	3	97	
Closures	1	35	2	97	
Reports Due	13		12		
Open Cases	28		58		

FY2011 Quarterly Totals

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
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CENTRAL OFFICE

Audits	0			
Reports	3			
Closures	1			

	AUG	NOV	FEB	MAY
Pending Reports	13			
Open Cases	28			

REGIONAL

Audits	9			
Reports	3			
Closures	2			

Pending Reports	12
Open Cases	58

Total Labs by Responsibility		8/1/10	8/1/09	2/1/09	5/1/08	11/15/07	8/1/07
CO	Central Office	104	103	109	110	113	118
RC	Regional/Central	----	----	----	----	----	----
NE	Northeast	60	62	65	65	----	----
NO	Northern	27	29	29	31	31	31
WC	West Central	59	63	60	62	61	61
SC	South Central	70	71	74	75	75	75
SE	Southeast	68	68	69	69	69	69
Total Regional		284	291	295	302	301	302
Total Audit Responsibility		388	394	404	414	420	423
O	Other/Reciprocity	8	8	8	7	7	8

- E. A discussion ensued regarding the growing number of open cases. Council members also reported feedback from their lab constituency that frequently the audit occurs and the lab hears nothing back from the auditor for months. Part of that issue is that a lab receives its audit response, prepares and submits a timely response to the report, yet receives no feedback. Chris Groh asked if the program had considered perhaps sending a note back to the laboratory indicating that their response had been received and that the labs will hear back formally within some period of time.
- F. Sue Hill noted that she sees a lot of conflicting desires. Auditors want to help—that's good—and they want to be thorough—and that's also good—but there has to be a balance between providing technical assistance, being thorough, while still responding to the lab within a reasonable timeframe. Hill related a recent experience during a NELAP audit in which the auditor asked to see some data and the lab couldn't immediately locate it.
- G. Dave Webb noted that a turnover in audit staff, or sending a different auditor to a lab seems to result in deficiencies identified that had not been previously identified. This has increased the time it takes to get some reports out. Paul Harris commented that he believes some auditors were lax, leading to inconsistent application of code requirements. Then a new auditor comes in and finds deficiencies overlooked by the previous auditor.
- H. Webb stated that he fully supports the use of metrics with which to evaluate program performance, but at the same time feels good about the quality of service provided and the relationship the program has established with the lab community. He believes that the quality of data is high, and the program's primary mission is to ensure that rules are consistently applied.
- I. Tom Hungerford asked how often auditors get together and review/share experiences. Dave Webb responded that a lot of informal sharing occurs. There hasn't been a lot of whole program sharing of late, but that he can do something about that. Webb noted, however, that some staff talk with other staff almost daily.
- J. Sue Hill asked how a contract auditor would work since they are not an employee of the DNR. Webb responded that he's uncertain how payment would be made, but it would be someone capable of performing audits with minimal training. The individual might not be in our building that much and there will be some challenges to work through, such as database access. Rick Mealy commented that about 12 years back the program, contracted successfully with an auditor who had left the program to take a private sector position. That situation seemed to work very well at the time.
- K. Dave Kliber noted that from a year ago, there is a significant decline in overall report turnaround time, which is disconcerting.

IV. Budget Variance Report

BUDGET ITEM	FY 2010 BUDGET	FY 2010 DIRECT EXPENSES	DIFFERENCE
Salary and Fringe			
FTE Salary	\$ 371,977	\$ 271,456	-27.0%
FTE Fringe	\$ 180,744	\$ 131,900	-27.0%
Subtotal: Salary and Fringe	\$ 552,721	\$ 403,356	-27.0%
Supplies and Services			
Office Supplies, Services, and Equipment	\$ 2,500	\$ 1,668	-33.3%
In-State Travel (Laboratory Audits)	\$ 20,400	\$ 16,107	-21.0%
Out-of-State Travel (Laboratory Audits)*	\$ 16,000	\$ 15,160	-5.3%
Outreach	\$ 15,000		-100.0%
Staff Training	\$ 5,000	\$ 147	-97.1%
Postage	\$ 3,400	\$ 3,094	-9.0%
Printing and Copying Services	\$ 800	\$ 237	-70.4%
Telecommunications	\$ 4,000	\$ 4,777	19.4%
Subtotal: Supplies and Services	\$ 67,100	\$ 41,189	-38.6%
Information and Technology			
Computers and Software	\$ 11,000		-100.0%
BTS Support Charges	\$ 6,000	\$ 2,175	-63.8%
Subtotal: Information and Technology	\$ 17,000	\$ 2,175	-87.2%
TOTAL FY 2010 BUDGET	\$ 636,821	\$ 446,720	-29.9%

- A. Dave Webb initiated the discussion by reminding Council members that the LabCert budget is basically 2 parts: salary/fringes and supplies. When he runs a report, he gets three numbers: salary, fringes, and supplies. To obtain numbers for individual supply lines, we have to essentially untangle the reports. The program budgeted for 6 months of Diane's Drinkman's salary during fiscal 2010. For fiscal 2011, we budgeted nothing for that position. Furloughs affected the amount of salary spent year to date, but not to the extent of the -27% shown in the budget variance report.
- B. Webb also provided another example of how difficult it is to evaluate budget data at a single point in time. Computers, for example, are associated with an \$800/machine charge. We did purchase a few new computers, but the budget looks as if we have spent nothing. It all relates to the timing at which charges are assessed.
- C. Dave Kliber commented that he had heard that one auditor attended the recent NELAC conference and asked whether that was funded out of our budget. Webb responded that that is not the case; the individual funded attendance on their own.
- D. With respect to the staff training line, Webb stated that the intent was for Camille Johnson and Alfredo Sotomayor to attend EPA certification officer refresher training in Cincinnati (about \$5,000) but due to schedule conflicts that will not occur.
- E. Webb closed the discussion by noting that the program typically under-spends its supply line, but that closing at 30% under budget is related to collect fees for salary for the Drinkman vacancy which was not filled.
- F. Regarding the training budget, Dave Kliber asked if any council member's constituency had identified areas where training is needed. Webb responded that it will be very difficult to provide any training while under furloughs and being short staffed. He thought that if the Council wanted to talk about PT (Proficiency Testing) issues, that could be done at a Wisconsin Environmental Lab Association (WELA) meeting.
- G. Paul Harris asked whether it was possible, due to program under-spending, that someone could reduce program spending authority. Webb responded that spending authority is roughly based on FTE position authority. The program remains authorized for 7.9 positions, so the spending authority should not change. Webb added that there are some in the agency who believe the program should collect fees up to the full spending authority, a philosophy with which he disagrees. Dave Kliber commented that the program has a needs-based budget, but asked what would happen if the program spending authority was reduced by \$500K. Webb responded that, rarely, programs are targeted by the legislature.
- H. Webb closed the budget discussion by indicating that if the budget lines could be further entangled, we will provide that information to the Council.

V. Variances

None.

VI. Auditor Consistency

- A. Dave Kliber noted that this agenda item was designed to address Sue Hill's concern. He added that the issue was further discussed at the recent WELA meeting. The WELA group determined that, rather than a checklist approach, the lab community would prefer to see an outline of the audit process. This would enable labs to see the standards of what every auditor must go through. Rick Mealy suggested that such a document already exists as part of the NR 149 Implementation Guidance. There is a document entitled, "Lab Evaluation Standard Operating Procedure (SOP)" http://www.dnr.state.wi.us/org/es/science/lc/OUTREACH/3Guid/B_AuditSOP.pdf.
- B. Tom Hungerford suggested that the detail should include what records a lab should have on hand before the audit, expectations for each day of an evaluation, and what information should be sent beforehand. Dave Kliber added that if there is a set of standards [for a given technology/analyte] which a lab must achieve then the program should identify what the standards are.
- C. Sue Hill added that what she was trying to communicate is that some auditors come to an evaluation with their own very detailed checklists and another auditor will come in and just work off of memory. She is concerned that such a situation does not lend itself well to audit consistency. Hill further noted that some agencies use detailed checklist even down to checklists for specific methods.
- D. Paul Harris commented that he agreed with Hill. All auditors should be on the same page with respect to what constitutes a deficiency. Harris emphasized that as someone in a very competitive business, he needs black and white clarity. He noted that NELAC is cut and dry, while LabCert has more of a relationship with the lab.

- E. Dave Webb stated that he had hoped NR 149 changes would clarify this. The program has developed checklists for the five basic tests. Tom Trainor has some checklists he personally developed, as does Camille and Dave. The program needs to identify which of these it wishes to use as a basis.
- F. Dave Klüber suggested implementing a “best practices” approach, where auditors would share experiences and checklists and, through sharing, arrive at a mutually agreeable approach.
- G. Webb indicated that he would see what he can do to bring this to the next level. He added that he does not send an auditor to a lab if the auditor is not comfortable with the extent of technologies the lab maintains.
- H. Sue Hill asked if there is a program standard for what must be done to resolve a particular deficiency. Webb responded that there is nothing formal or written, although most auditors include in their reports (available to all audit staff) how the lab could address a particular deficiency. Hill added that her real question is whether the program accepts as a satisfactory response something such as, “Our plan is to complete this by....”
- I. A lengthy discussion occurred regarding the extent to which lack of SOPs was a driving factor behind the number of open cases and whether or not training would help to address that problem. Randy Thater commented that it is frequently the labs that do not attend training that are the problems.
- J. Tom Priebe commented that all labs are not created equal and that small labs cannot attack this as a lab-wide process, as is the case with commercial labs., Any checklist the program has must be tailored to what these labs are able to cope with.

VII. Certification Renewal Update

- A. Rick Mealy briefly updated the Council on the status of the fiscal 2011 accreditation renewal effort.
 - a. 323 of 396 labs are completely ready to renew (81.6%)
 - b. Fees owed = \$16,210 (9 labs)
 - c. Collected 97.2% of \$570.3K billed
 - d. Total PTs owed = 291
 - e. 66 labs owe one or more PT samples to complete their renewal
 - f. 18 not eligible for renewal at this point
 - i. 10 have not paid their fees
 - ii. 6 have not submitted any PTs
 - iii. 1 lab is on hold as per Department of Revenue
 - iv. 1 Reciprocity lab has not renewed their home state accreditation

VIII. Other Program & DNR Business

- A. NR 149 Rule updates – Dave Webb noted that he thought we might have a pink sheet (formal agency notice of intent to initiate a rule change) by now but he does not. Webb indicated however, that the program will have a pink sheet soon, and we can embark on a mission to adjust NR 149 based on our combined experiences working with the 2008 revisions. Webb indicated that he wants the process to be streamlined, not creating a Technical Advisory Committee (TAC) but rather using the Council as a proxy.
- B. Phosphorus Rule – Webb asked for any feedback from the Council regarding the Department’s recent decision to implement strict phosphorus discharge standards. Paul Harris said that it’s too early to tell until we know for certain what permit levels will be established, but he senses that labs will have difficulty meeting LOD requirements.

Randy Thater added that limits of 0.075 ppm will be required for most plants.

Chris Groh noted that with permit limits at 1 ppm, there have been a few issues with the popular Test n’Tube method. Reduce the limit tenfold, and there are certain to be performance issues, particularly with respect to LODs and blanks.

Paul Harris suggested we consider gathering lab LOD data as we have in the past.

Tom Priebe said the issues will be similar to that seen with low level mercury but be more widespread because virtually every municipal wastewater plants will be affected.

IX. Council Member Issues

- A.** Dave Kliber asked what future trends the program sees coming down from EPA or Congress that will affect laboratories. Webb responded that the big item on the horizon is endocrine disruptor testing. He doesn't see it as anything imminent, but certainly eventual. He added that it all comes down to what the Department regulates in a ch. 283 permit.

Tom Priebe noted that next year the EPA is scheduled to release a study on personal care products and pharmaceuticals that are appearing in water resource systems.

Dave Kliber added that following the ACIL convention in October he may have something additional to report.

- B.** Randy Thater that he received a call from a constituent concerning how much advance notice was given to laboratories prior to an on-site evaluation. The constituent reported that in this case, the auditor called and left a message attempting to schedule an audit for the next week. Apparently when the auditor did not hear back quickly enough, the auditor called the City Hall.

Rick Mealy stated that typical practice is for auditors to call 2-3 weeks in advance of a desired audit date. There are, however, occasions when an auditor plans to be in an area at a certain time, and in the interests of efficiency, may try to schedule something with a neighboring lab with less than the standard notice.

X. Next Meeting Date

- A.** The next Council meeting was tentatively scheduled for Tuesday, November 9, 2010 at the DNR Science Operations Center (2801 Progress Road, Madison).