

## Laboratory Certification Standards Review Council Meeting Minutes From 2/08/2011

### Attendance

Council Members: Dave Kliber (Chair), Sue Hill (Vice-Chair), Randy Thater, Kirsti Sorsa, Steve Jossart, Judy Tholen, Chris Groh [via LiveMeeting]  
*Absent: none*

DNR Staff: Camille Turcotte, Rick Mealy

Others in Attendance: Paul Harris (Davy Labs), Paul Junio and Tom Priebe (Northern Lake Service), Craig Martin (WE Energies), Dave Webb (WSLH)

Others Via LiveMeeting: Tom Hungerford (S-F Analytical), Todd Biewen, Luke Charpentier, and Bill Scruton (MPCA)

### Summary and Action Items

At this meeting the Certification Standards Review Council:

- o approved a 1-year pilot program to add an afternoon technical information session to its quarterly meetings,
- o conditionally approved the concept of working with the Minnesota Pollution Control Agency (MPCA) with respect to MPCA's plan to accept WDNR's accreditation for facilities performing compliance testing,
- o approved minutes of its November 9, 2010 meeting,
- o approved a slate of officers for 2011,
- o approved the program's budget and fee package for FY 2012,
- o reviewed program audit performance, and
- o tentatively scheduled the Council's next meeting for Tuesday, May 10, 2011.

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### Agenda Items

#### **I. Check in/Agenda Repair**

- A. Randy Thater asked to present an item under "Council Member Issues".

#### **II. Introductions**

- A. Newly appointed section chief Camille Turcotte formally introduced herself to Council members.

#### **III. Training Opportunity**

- A. Dave Webb opened the issue by reminding the Council the frequency at which the Council has discussed training and the role of the State Lab (of Hygiene). Webb presented the idea of adding an afternoon session to Council meetings and using the time to conduct training/outreach. Webb envisions Lab of Hygiene staff coming in to address a particular topic of interest (e.g., gross alpha, phosphorus). Due to space limitations, a webcast of the session could be developed.
- B. Randy Thater offered that the concept sounded like something to explore. Dave Kliber agreed, noting that the issue of training comes up at every Council meeting. Kirsti Sorsa also agreed. Judy Tholen expressed concern regarding how the program would get the word out to reach people who might be interested. Dave Webb asked for notice regarding topics of interest at least a month in advance of the next Council meeting. A motion to pilot the afternoon sessions for one year (Thater/Sorsa) carried.
- C. With respect to potential topics for the May 2011 Council meeting, Webb suggested that the state lab could review its protocol for hexavalent chromium testing in drinking water. Tom Hungerford suggested the phosphorus rule as a potential topic.

#### **IV. Minnesota Pollution Control Agency (MPCA) Update**

- A. Todd Biewen (Assistant Division Director, Environmental Analysis & Outcomes), Luke Charpentier (Supervisor, Performance Management & Quality) and Bill Scruton (Senior Staff, Performance Management & Quality) introduced themselves.
- B. Luke Charpentier began by stating that for laboratory certification, it is PCA's desire to accept Wisconsin DNR certification, as well as certification from the Minnesota Department of Health. Charpentier

indicated that the PCA had been approached by labs requesting alternative solutions for certification. He added that all but one major Minnesota lab is already certified by WDNR. The PCA wanted to talk to WI before making any policy decision. PCA understands that there is no guarantee that Wisconsin would even accept applications from Minnesota labs for certification. Noting that a reciprocity agreement between Minnesota and Wisconsin was severed in 2001, Bill Scruton summarized that the PCA wished to offer flexibility by providing labs with options for certification.

- C. Camille Turcotte asked about WWTP labs. Charpentier responded that this issue has only been discussed with Wisconsin Lab Certification Program staff at this point. Turcotte added that she has staffing concerns and does not want this to be perceived as the LabCert Program doing work for Minnesota using Wisconsin lab fee revenues. Subsequently, the program would consider building in a surcharge.
- D. Randy Thater indicated that while he understood that this development would be a “win-win” for commercial labs, he expressed reservations given the program vacancies and backlog. Dave Kliber added that [audit] priority would have to be given to Wisconsin labs. Paul Harris emphasized that this policy would give Wisconsin an option. Turcotte followed up by reminding the Council that there are provisions in NR 149 regarding the ability to turn away applications. Paul Junio asked if the MDH rule requiring two PTs (per analyte per year) would hamper any agreement. Charpentier responded that the “two PT” requirement is an element of NELAP, not PCA rules.
- E. Dave Kliber commented that, in the private sector, when an opportunity presents itself, business determines a mechanism to get there. Turcotte added that a code change (NR 149) would be required to add a surcharge (for out-of-state labs). A code change would take time. Randy Thater suggested that this was also an opportunity to fortify code language regarding acceptance of applications from labs that do not test samples originating in Wisconsin. Charpentier pointed out that Minnesota Department of Health just completed its certification renewal process, meaning that he would not expect any facilities to approach us until next fall.
- F. Dave Kliber asked what the incentive was for MPCA. Charpentier responded that the primary goal was to offer flexibility to laboratories. The PCA has nine labs under contract, which service a good portion of western Wisconsin. A frequent concern heard is, “*Why are both certifications necessary?*” Todd Biewen added that WWTPs are considering shutting down their labs due to the increased certification costs in Minnesota. That would result in the loss of timely monitoring and process control data. Paul Harris noted that there are data quality requirements in addition to certification; he asked if the PCA could simply allow labs to submit data if they follow the data quality requirements. Charpentier responded that they frequently find that labs are not following method requirements. He added that some regulatory agencies are less rigid about the need to follow methods.
- G. A motion was made (Kliber/Hill) that the Council approve the concept of working with MPCA for mutual certification with the following conditions:
  - Wisconsin labs would receive audit priority,
  - a surcharge would be established,
  - NR 149 would be revised, and
  - this issue would be revisited with the Council.

Sue Hill wanted clarification that the surcharge would be for those labs that do not do compliance testing for Wisconsin. The motion carried on a vote of 6-1 with Randy Thater opposed. Dave Kliber asked if Thater would share the reason for his dissenting vote. Thater responded that he doesn't see an advantage for his constituency to the decision. Camille Turcotte added that [Bureau Director] Jack Sullivan would call Luke in a week or so.

- H. Paul Harris pointed out the language contained in s. NR 149.14(1)(a)6, which addresses the requirements for labs outside of Wisconsin to provide documentation of intent to analyze sample originating in Wisconsin. Dave Kliber requested that the LabCert program obtain a legal opinion of how (or whether) that code citation can be used to limit applications received from outside Wisconsin. He requested that this information be provided at the next Council meeting.

**V. Review and Approval of Draft Minutes from November 9, 2010 Meeting**

- A. A motion (*Thater/Groh*) to approve the minutes with correction of a few minor typographical edits, discussed during the meeting, was approved 7-0.

**VI. Officer Elections**

- A. Initial discussion centered on any officer slots that need to be replaced. It was determined that only the Secretary position must be replaced since current Secretary Steve Jossart's second (final) term expires July 1, 2011.
- B. Chris Groh indicated that he would be willing to serve as Secretary. Randy Thater nominated a slate of officers consisting of Dave Kliber as Chair, Sue Hill as Vice-Chair, and Randy Thater as Secretary. Chris Groh subsequently withdrew his self-nomination to serve as Secretary. The Council requested that terms of all members be included with the meeting minutes.
- C. A motion (*Hill/Jossart*) to approve a 2011 slate of officers consisting of Dave Kliber as President, Sue Hill as Vice-Chair, and Randy Thater as Secretary was approved 7-0.
- D. Current Certification Standards Review Council Membership and Terms, as revised today:

Representation	Name - role - Term # - Expires	Address	Phone #
Industrial Laboratory	<u>Mr. Steve Jossart</u> Term 2 Exp. 07/11	Fort James Operating Co-Green Bay West P.O. Box 19130 Green Bay, WI 54307-9130	(920) 438-2898
Commercial Laboratory	<u>Mr. David Kliber</u> Chair Term 2 Exp. 07/12	S-F Analytical Laboratories 2345 South 170th St. New Berlin, WI 53151	(262)754-5300
Public Water Utility	<u>Ms. Kirsti Sorsa</u> Term 1 Exp. 07/12	Public Health Madison-Dane County Laboratory 210 Martin Luther King Jr Blvd Rm 516 City-County Building Madison, WI 53703	(608)266-4821
Small Municipal Wastewater Plant	<u>Ms. Judy Tholen</u> Term 2 Exp. 07/13	N7543 Rock Lake Road Lake Mills, WI 53551	920-285-6174
State Laboratory of Hygiene	<u>Ms. Susan Hill</u> Vice-Chair Term 2 Exp. 07/12	State Lab of Hygiene PO Box 7996, 2601 Agriculture Dr Madison, WI 53707	(608) 224-6282
Large Municipal Wastewater Plant	<u>Mr. Randall Thater</u> Secretary Term 1 Exp. 07/11	City of Waukesha WWTP 600 Sentry Dr. Waukesha, WI 53186-5950	(262) 524-3631
Demonstrated Interest in Laboratory Certification	<u>Mr. Chris Groh</u> Term 2 Exp. 07/12	Wisconsin Rural Water Assn. 350 Water Way Plover, WI 54467	(715) 344-7778
Solid and Hazardous Waste Disposal Facility	Vacant	-----	-----
Agricultural Interest	Vacant	-----	-----

**VII. FY 2012 Budget and Fees**

**VIII. FY11 Budget Variance Report**

- A. Camille Turcotte presented the program's proposed FY 2012 budget, broken down into expenses, revenues, and fee calculations. The program has three vacancies currently (her position, and the positions formerly held by Alfredo Sotomayor and Diane Drinkman). The program has hired George Bowman as a contract auditor and that has worked well. The budget assumes that 2 FTE will be hired to fill vacancies. The budget for outreach has been reduced due to staffing issues. Postage costs were

**Expenses**

BUDGET ITEM	FY 2012 BUDGET
<b>Salary and Fringe</b>	<b>\$ 538,059</b>
FTE Salary	\$ 332,251
FTE Fringe	\$ 181,808
P/T Contract Auditor *	\$ 24,000
<b>Supplies and Services</b>	<b>\$ 45,500</b>
Office Supplies, Services, and Equipment	\$ 3,000
In-State Travel (Laboratory Audits)	\$ 17,000
Out-of-State Travel (Laboratory Audits) **	\$ 10,000
Outreach	\$ 2,500
Staff Training	\$ 5,000
Postage	\$ 2,500
Printing and Copying Services	\$ 500
Telecommunications	\$ 5,000
<b>Information and Technology</b>	<b>\$ 14,800</b>
Computers and Software	\$ 5,200
BTS Support Charges	\$ 9,600
<b>TOTAL FY 2012 BUDGET EXPENSES</b>	<b>\$ 598,359</b>

reduced significantly due to a decision to disseminate program newsletters electronically.

- B. Paul Harris expressed concern because certification represents a license to do business. A reduction in staffing means less audits, which he believes will hamper the ability to maintain a level playing field.
- C. Dave Kliber indicated that he is troubled as a taxpayer, noting that the program is operating at a 61% compliance level [with audit reports released within 30 days of the audit]. He added that the Council has discussed the lack of accountability at every meeting. As an advisor, he wants to see accountability. He further added that the fringe benefits rates cost us a lot of money. He would like to see all three program vacancies filled with contractors. He likes the contractual requirement that pays the contract auditor 50% [of the contracted fee] when the report is issued and the other 50% when the case is closed. There are also no fringe costs.

### Revenues

<b>LabCert Fee Revenue</b>	<b>\$ 546,858</b>
LabCert base fee revenue: RVU=2750	\$ 148,500
LabCert matrix fee revenue: RVU=2520	\$ 136,080
LabCert technology fee revenue: RVU=4697	\$ 253,638
LabCert application fee revenue: RVU= 160	\$ 8,640
** Out-of-State Travel Re-imbursements	\$ 10,000
* Prior Year Rollover (Unspent Cash Reserves)	\$ 44,000
Contractor support	\$ 24,000
One-time utilization to reduce fees	\$ 20,000
<b>TOTAL FY 2012 BUDGET REVENUES</b>	<b>\$ 600,858</b>
<b>PROJECTED SURPLUS/SHORTFALL</b>	<b>\$ 2,499</b>

- D. Camille Turcotte responded that using contractors would make the program weaker. The program would not have the staff continuity. Audit staff members do much that the lab community does not see, such as working with other DNR program staff. She added that contractors are also more expensive because we pay for their time. Subsequently we may get quantity in terms of audits performed, but the quality of the audit becomes questionable.

### Fee Basis (Cost/RVU)

<b>REQUIRED FEE REVENUE</b>	<b>\$ 544,359</b>
TOTAL FY 2012 BUDGET EXPENSES	\$ 598,359
Out-of-State Travel Re-imbursements	\$ (10,000)
Prior Year Rollover (Unspent Cash Reserves)	\$ (44,000)
<b>TOTAL BUDGETED RVUS</b>	<b>10127</b>
projected lab RVU	9967
projected application RVU	160
<b>COST / RVU (Required Revenue/ Total RVU)</b>	<b>\$ 54.00</b>
comparison to FY 2011 (\$57.00/RVU)	-5.3%
actual cost per RVU	\$ 53.75

Average WWTP lab fee	\$ 918.00
Average Commercial Lab fee	\$ 4,050.00

- E. Paul Junio added that he couldn't come down harder on the opposite side [of Kliber's suggestion]. He does not believe we can bring someone in from the outside with the depth of knowledge of NR 149 required. Third party auditors, like those from A2LA, would not be the same.
- F. Randy Thater indicated that he'd prefer to see the vacancies filled with FTEs. Kliber asked, "How do we build in accountability?" Steve Jossart wondered how the program could be so far from the compliance benchmark, noting that he has gotten to know many of the audit staff. Turcotte responded that the numbers reflect one individual and it is no longer an issue.
- G. Rick Mealy added that the program performance data show substantial improvement since the November Council meeting. He added that Camille has had only a month in her new role to effect change. He encouraged Council members to give consideration to the improvements made in short order and not pass further judgment on the program accountability until the May Council meeting. To emphasize the progress made to-date, Mealy highlighted the following:
- For audits performed in FY 2011, 30-day compliance is now 81% vs. 65% in November
  - For reports issued in FY 2011, 30-day compliance is now 67% vs. 51% in November
  - Going back to 2008, 30-day compliance is at 61% vs. 59% in November. That represents a huge volume of reports, so a 2% change is significant.
  - Overall, the numbers of pending reports and open cases has dropped.
- H. Looking at the FY 2011 Budget Variance report, Turcotte explained that many costs are buried and co-mingled within the bureau finances. Pulling this data out is quite labor intensive. The charges for "allocables" (shared bureau costs) vary from month to month, which makes it difficult to determine.
- I. Craig Martin suggested that it's likely not worth the effort pull out the detailed data. Dave Kliber agreed, adding that the subtotals in each of the three main categories (salaries & fringe, supplies & services, and information & technology) are all the Council is interested in.
- J. Kliber asked for further comments on the budget. Randy Thater commented that he hates to see outreach efforts curtailed, but understands given staff limitations.

K. A motion to approve the budget/fees package (*Thater/Jossart*) passed on a 6-0-1 vote, with Kliber abstaining. Thater asked if Kliber would share the reason for his abstention. Kliber responded that he is troubled by the budget lines. He likes the way one contractor is working and would like to see how it works with more.

L. Tom Hungerford requested that between now and May, the council obtain a monthly budget variance report. Turcotte indicated that that was possible, but emphasized that quarterly data is more prone to showing the big picture. Dave Kliber suggested backing off until charges catch up.

M. Craig Martin asked, in the interest of reducing the number of open cases, if thought had been given to capturing, for a given audit, in whose court the ball lies. Turcotte responded that the program hasn't enforced the 30-day compliance time for responding to audit reports. She added that WWTP labs have trouble because they are responsible for many things.

N. Steve Jossart was interested in understanding how big an issue [the problem of open cases] is. Turcotte responded that she uses monthly reports to evaluate program progress.

### FY 2011 Budget Variance Report

FY 2011 BUDGET ITEM	BUDGET \$	DIRECT EXPENSES*	BUDGET %
<b>Salary and Fringe</b>			
FTE Salary	\$ 347,639	\$ 149,495	43.0%
FTE Fringe	\$ 168,918	\$ 73,560	43.5%
Subtotal: Salary and Fringe	\$ 516,557	\$ 223,055	43.2%
<b>Supplies and Services</b>			
Office Supplies, Services, and Equipment	\$ 3,000	\$ 800	26.7%
In-State Travel (Laboratory Audits)	\$ 20,000	\$ 7,500	37.5%
Out-of-State Travel (Laboratory Audits)**	\$ 12,000	\$ 5,500	45.8%
Outreach	\$ 10,000	\$ 500	5.0%
Staff Training	\$ 5,000	\$ -	0.0%
Postage	\$ 3,500	\$ 500	14.3%
Printing and Copying Services	\$ 800	\$ 400	50.0%
Telecommunications	\$ 5,000	\$ 1,000	20.0%
Subtotal: Supplies and Services	\$ 59,300	\$ 16,200	27.3%
<b>Information and Technology</b>			
Computers and Software	\$ 6,000	\$ 2,500	41.7%
BTS Support Charges	\$ 9,300	\$ 3,400	36.6%
Subtotal: Information and Technology	\$ 15,300	\$ 5,900	38.6%
<b>TOTAL FY 2011 BUDGET</b>	<b>\$ 591,157</b>	<b>\$ 245,155</b>	<b>41.5%</b>

### IX. Program Performance Status Report for FY2011 Year-to-Date

- A. Council members were presented with program audit statistics for the current fiscal 2011, as well as backlog information as summarized in the figures below.
- B. Program-wide, compliance with the 30 day turnaround time for audit reports to be issued is at 67 % for fiscal 2011 (47 of 70 reports issued). For the commercial/public health lab sector, compliance is at 19% (3 of 16 reports issued within 30 days). For the municipal/industrial sector, the compliance rate is 82% (44 of 54 reports).

### FY2011 Cumulative Totals

	CENTRAL OFFICE		REGIONAL		(Goals based on audit every 3 years)
	Total YTD	Goals	Total YTD	Goals	
Audits	8	35	60	97	
Reports	16	35	59	97	
Closures	18	35	37	97	
Reports Due	7		6		
Open Cases	18		74		

### FY2011 Quarterly Totals

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<b>CENTRAL OFFICE</b>				
Audits	3	4	1	
Reports	8	6	2	
Closures	6	8	4	

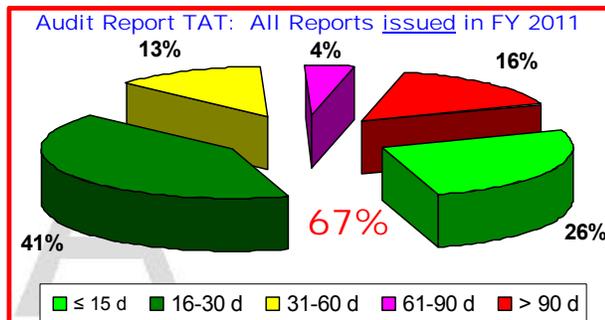
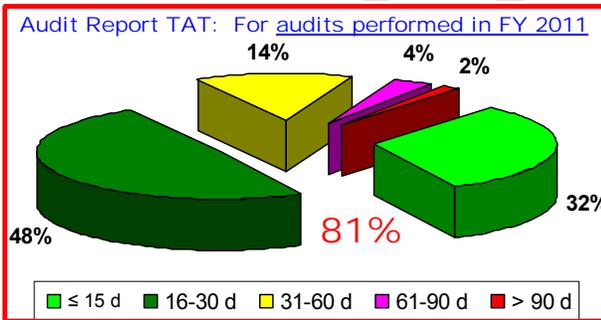
	AUG	NOV	FEB	MAY
Pending Reports	13	8	7	
Open Cases	28	23	18	

**REGIONAL**

Audits	27	23	10	
Reports	17	33	9	
Closures	15	17	5	
Pending Reports	12	9	6	
Open Cases	58	65	74	

**Total Labs by Responsibility**

	Nov '10	May '08	Nov '07	May '07	Oct '06	May '06
Commercial/Public Health	103	110	113	121	122	123
Municipal/Industrial	285	302	301	302	298	302
<b>Total Audit Responsibility</b>	<b>388</b>	<b>412</b>	<b>414</b>	<b>423</b>	<b>420</b>	<b>425</b>
Reciprocity	8	7	7	8	8	11



**Report TAT (Audits in FY 2011)**

Commercial/Public Health (CO/PH)	67% (2/3)
Municipal/Industrial (MU/IN)	82% (44/54)

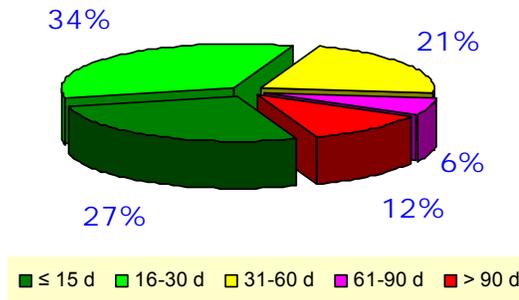
**Report TAT (Reports Issued in FY 2011)**

Commercial/Public Health (CO/PH)	19% (3/16)
Municipal/Industrial (MU/IN)	82% (44/54)

61%

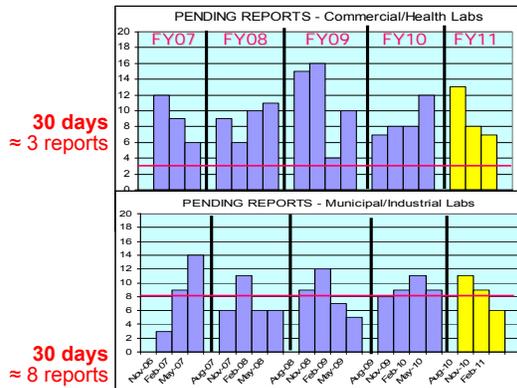
**Audit Report TAT Since 9-1-2008**

Program-wide; includes reports > 30 days that have not been issued.



## PENDING AUDIT REPORTS

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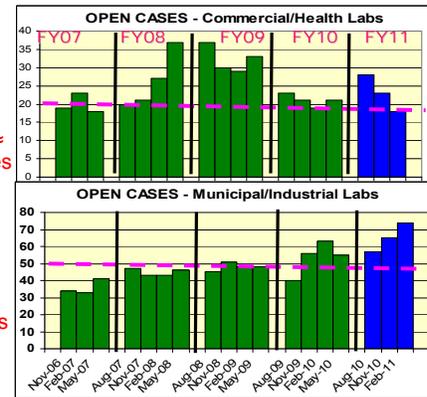
30 days  
≈ 3 reports

30 days  
≈ 8 reports

## OPEN CASES

50% of goal ≈  
17 open cases

50% of goal ≈  
48 open cases



## X. Auditor Consistency

- A. Camille Turcotte opened the discussion by stating that she is reviewing all audit reports. As an auditor, she brings a different perspective to the report review process. Program staff will meet and come to consistency. SOPs will be generated for the program, as they will be needed for the EPA audit of the program which is occurring in June.
- B. Sue Hill indicated that she was a little concerned and asked why Pat Churilla would be auditing the program. Turcotte and Mealy explained that as part of the program's having primacy for drinking water accreditation, Mr. Churilla occasionally performs program audits. It has been awhile since the program's last audit, so one has been scheduled for June.
- C. Turcotte indicated that she will hold regular group meetings and will perform "shadow" audits of auditors. She is looking into checklists—however named. She can train new staff with other staff. SOPs are to be drafted by March.
- D. Sue Hill indicated that it sounds like a good plan and having new auditors will help build the program to where we want it to be.

## XI. Other Program & DNR Business

### A. Vacancies

\_\_\_\_\_ – Turcotte indicated that her plan is to fill the vacancies with "full scale" auditors; she wants all audit staff to be capable of auditing all levels of lab complexity. A request to fill (RTF) has been submitted at the DNR level. The DNR senior management has not forwarded any RTFs over to the Department of Administration (DOA). Filling these positions is critical to our maintaining an adequate level of customer service. It would be helpful for the Council to send a letter to DNR Secretary Cathy Stepp, with a copy going to Governor Walker's office. Kliber indicated that, despite his dissenting vote, he will draft such a letter.

- B. Phosphorus Rule – LabCert is not putting out rule guidance, but Turcotte is working with watershed to develop guidance, which should be available in the next few weeks. We will be reviewing the results of our survey on limit of detection (LOD) for total phosphorus. Watershed is looking for LODs in the 0.02 to 0.03 mg/L range. LabCert will also be working with the State Lab of Hygiene to lower LODs. Tom Hungerford added that Russ Rasmussen is scheduled to make a presentation on the Phosphorus Rule at the Government Affairs seminar on February 24.
- C. NR 219 – is on hold pending the finalization of the EPA's recent Method Update Rule.
- D. NR 149 – has not been "pink sheeted" yet due to the workload involved, staff shortage, and a new administration team. Paul Harris commented that he felt that this was a good decision. The priority needs to be getting vacancies filled. He just doesn't want to see the effort continually postponed. Turcotte indicated that she'll revisit it in three months.
- E. Contractor – Turcotte reported that hiring George Bowman has been quite successful; she is looking to revise the contract such that Bowman can assist in other areas besides auditing.

- F. Potential Program Fund Lapse – Turcotte reviewed the fact that last fiscal year the program absorbed a \$62,000 lapse of unspent program reserves. Governor Doyle decided that all programs except the Conservation/Segregated (Con/Seg) Funds (e.g., hunting/fishing stamp revenue) would be affected. It appears that this might happen again this year. Turcotte suggested that the Council may want to voice their concerns. Our agency budget folks are telling us to plan on having a similar lapse this year.
- G. NR 700 Rule Change – Turcotte indicated that the program recently became aware of changes to NR 700. The rule is getting close to being “green sheeted” for public comment. The rule would eliminate DRO, GRO and PVOC as other than screening techniques. The requirement to analyze soil VOCs by methanol extraction would be eliminated in favor of SW-846 options such as purge and trap following bisulfate preservation. Paul Junio offered that sodium bisulfate is harsh on instruments. He suggested freezing samples is the best means of preservation.
- H. Audit Program Changes – Kliber prompted Turcotte about program changes she had discussed at the recent WELA meeting regarding a different approach to audit assignments. Turcotte responded that historically audits were assigned geographically. She is working out a system of assignments by capability vs. geography. She wants to develop an audit team. She added that there has usually been a W.E.T. specialist within the program, a capacity she most recently provided.
- I. New Technology – Turcotte announced that the program was exploring the use of new technologies to create efficiencies. Rick Mealy is testing a digital pen to see if it can be useful for us.
- J. Report Streamlining – Turcotte added that she is looking into using 30 business days as the compliance metric for audit reports. Mealy noted that in past discussions with legal counsel, the definition of “day” is calendar day unless defined otherwise in code. Another option to generate reports quicker would be to adopt a trimmer, “NELAC-style” audit report. By providing minimal guidance and eliminating things like the positives aspects of the lab, it would reduce the time required to generate an audit report.

## **XII. Council Member Issues**

- A. Randy Thater inquired about Council member terms. He noted that the Council would need a replacement for Steve Jossart. He added that his first 3-year term was expiring July 1, and he'd like to continue on for a second term. Camille Turcotte offered that John Kohler was an option to serve as industrial representative.

## **XIII. Next Meeting Date**

- A. The next Council meeting was tentatively scheduled for Tuesday, May 10, 2011 at the DNR Science Operations Center (2801 Progress Road, Madison).
- B. The meeting was adjourned at 12:57 CST