

**SUMMARY OF THE
ENVIRONMENTAL LABORATORY ADVISORY BOARD MEETING**

Teleconference: 866-299-3188/9195415544#

March 16, 2011; 1:00 – 3:00 p.m. EDT

The U.S. Environmental Protection Agency's (EPA) Environmental Laboratory Advisory Board (ELAB or Board) teleconference was held on March 16, 2011, from 1:00 to 3:00 p.m. EDT. The agenda for this meeting is provided as Attachment A, a list of the participants is provided as Attachment B, and action items from the teleconference are included as Attachment C. The official certification of the minutes by the Chair or Vice-Chair is included as Attachment D.

AGENDA ITEMS:

1. OPENING REMARKS

Mr. Dave Speis, Chair of ELAB, welcomed participants to the teleconference. Mr. Speis called an official roll of the Board members and guests and explained that Ms. Lara Autry, Designated Federal Officer for ELAB, would be listening to the call but was unable to actively participate.

2. APPROVAL OF FEBRUARY MINUTES

Mr. Speis asked for comments and clarifications regarding the February 2011 Board minutes; the date at the beginning of the document needs to be corrected. Ms. Judy Morgan asked to clarify her comments regarding certification in the State of Georgia; she will send the clarification to Ms. Kristen LeBaron of The Scientific Consulting Group, Inc. via e-mail. Dr. Michael Wichman requested to strike the sentence regarding state legislation. Dr. Wichman moved to accept the February 2011 minutes with these changes; Ms. Morgan seconded the motion. The minutes were approved unanimously with the changes.

3. UPDATES

Dr. Jim Pletl provided an update regarding the Sufficiently Sensitive Methods Rule. He has been in contact with Ms. Kathryn Kelley (EPA), who indicated that Mr. Jim Hanlon (EPA) will not be able to be involved in the discussion. A conference call with Ms. Kelley and her supervisor can be arranged on the following dates: March 23, 24, 30, or 31. Based on the members' schedules, the best time to meet is from 1:00 p.m. to 2:00 p.m. EDT on Wednesday, March 30, 2011.

Dr. Pletl will contact Ms. Kelley to organize the teleconference. He explained that EPA is planning to move forward with the rule. Mr. Jack Farrell asked whether EPA was required to respond to the comments that the Agency had received. Dr. Pletl responded that the Agency was required to respond but not before the rule is finalized. Mr. Farrell thought that EPA was required to respond to *Federal Register* notices before finalization. Dr. Pletl explained that the Agency may make adjustments to the final rule in response to comments and may respond to the comments at the same time that the rule is finalized.

Dr. Jeff Flowers explained that Mr. Lemuel Walker (EPA) had not responded to his call so there was no new information regarding the Methods Update Rule.

Regarding Recreational Water Quality Criteria, Dr. Wichman had received an e-mail from Ms. Patsy Root, who currently is attending the National Beach Conference in Miami, Florida; Ms. Root will be able to offer a full report about this meeting and the criteria during the April Board meeting. Ms. Root helped Dr. Wichman develop an e-mail to send to state environmental laboratory directors regarding this issue. He has received eight responses; he will compile them and send them to the ELAB members.

4. NEW DEVELOPMENTS/DISCUSSION

Mr. Speis said that the dioxin temperature being established at 4 degrees Centigrade may cause concern. Ms. Silky Labie wondered why the comment was not posed to The NELAC Institute (TNI). Mr. Farrell explained that this was because it is a method requirement and not a standards requirement. He wondered whether there was a more significant issue that was being missed. Is it a method issue or more significant one? The members thought that it sounded like an isolated method question and decided not to take up this issue.

Dr. Flowers said that in terms of Improving EPA's Regulations, the Workgroup quickly developed the comments because they must be submitted in 4 days. Dr. Wichman reported that the deadline had been extended to April 4, 2011. Ms. Shields had questions about Mr. John Phillips' comments. Dr. Flowers explained that Dr. Richard Burrows was unable to attend the teleconference, but he had provided comments that helped to improve the document. Mr. Phillips had not seen Dr. Burrows' comments, but he thought that the letter generally was well-written. Mr. Farrell has not had a chance to examine the letter. Ms. Labie thought that the letter highlighted necessary concerns, especially in regard to Mr. Phillips' comments.

Ms. Labie was unsure about the final statement: "Either allow states the flexibility to opt out of the certification requirements under 40CFR Part 141 or provide the states the resources to implement the program." Dr. Flowers agreed that this issue needs to be discussed by the full Board. Ms. Shields thought that there were many directions that this issue could take, and she thought that the statement should be removed completely. A Board member asked whether this was a primacy requirement. Ms. Shields responded that states are having difficulties in implementing items from the Drinking Water Certification Manual, and many individuals are concerned about potential mandatory requirements. Ms. Labie said that states already have primacy in the ability to opt out. Ms. Shields explained that she was not just speaking of one issue of primacy. It is an option that could be eliminated, but all of the unintended consequences must be considered.

Mr. Phillips' comments regarding method quality objectives (MQOs) that derive from data quality objectives (DQOs) were the result of a conversation with a TNI member during the last face-to-face meeting in which it was stated that DQOs are a statistical determination and that this discussion is about issues pertinent to bench measurements. Dr. Flowers thought that Mr. Phillips had improved the language of the document with his comments. Dr. Pletl agreed that this was a better representation.

Ms. Shields asked Mr. Phillips about his suggestion in the document to change "Replace mandated test methods with DQOs." to "Replace mandated test methods with flexible methods based on MQOs, which have been derived from program prescribed DQOs when feasible."

Mr. Phillips explained the difference between flexible and prescriptive methods. A flexible method is a broad term and its interpretation depends on each program office. When a program office considers a method flexible, then there should be MQOs established for that method. Ms. Morgan said that Dr. Burrows had sent an e-mail regarding MQOs/DQOs. She noted that from state to state and project to project, flexible methods cause mandated quality control criteria to change. If ELAB encourages flexible methods, being confined to the methods within the drinking water or wastewater programs ensures that permits are written to those methods, and the methods are run in the confines of the permit. Therefore, there is not a good deal of opportunity to change calibration, quality control, method detection limits criteria, and so forth. She thought that the crux of Dr. Burrows' comments was that encouraging this type of flexibility in these programs could cause significant challenges for laboratories to meet the criteria of different MQOs and DQOs. Dr. Flowers was confused by Dr. Burrows' comments; he thought that the Board was asking EPA to prepare a table of quality assurance requirements that would achieve that goal, not there would be a different table for every agency. Several members reported that they had not received Dr. Burrows' comments, so Mr. Speis read them to the members.

Mr. Farrell asked if a performance approach was being discussed, because some areas can be flexible, whereas others are not. Ms. Morgan thought that this was a better description of the discussion. As EPA has developed its method update rules, the Agency has promoted its Alternate Test Procedures (ATPs) and provided additional guidance, which indicates that the Agency is allowing for more performance-based types of things for different types of methodologies. Therefore, Mr. Farrell's description is a better description than flexibility, because flexibility is too broad. Mr. Phillips thought that "performance approach" was a term that the Office of Water was using. Mr. Farrell explained that the term is used by several programs (e.g., wastewater). Mr. Phillips said that he would prefer prescriptive methods. They should be defined by the program; it is not intended that every client can set its own set of DQOs and MQOs. This limits the number of sets of criteria that must be achieved. Mr. Speis stated that this was how he had interpreted the comments regarding DQOs and MQOs. He thought that it was possible that Dr. Burrows thought that the statement applied to the project/client level rather than the Agency, which would state it as its quality objective.

Ms. Shields said that the document should be made clearer and that EPA needs to develop MQOs and DQOs at the national level. Mr. Speis explained that ELAB had similar thoughts during the discussion about the Sufficiently Sensitive Method Rule. He will examine these comments and construct remarks for the current issue so that they are consistent with the Board's prior comments. Dr. Flowers said that the goal should be nationally set limit tables so that the method developers know what to build, which should bring the technology up to date. This would encourage innovation and is a critical endeavor.

Dr. Flowers read the new cover letter that Ms. Autry developed and, in response to a question by Mr. Lowry, explained that the Workgroup agreed to remove the last statement. Dr. Wichman asked Dr. Flowers about the comments in the section on local government. He thought that the crux was that state and local government should be able to waive parameters that are not found in their jurisdiction; he noted that in his state, these already are waived. This is a primacy issue between the state drinking water program and the regions. Dr. Flowers provided an example from the State of Florida. Mr. Eddie Clemons, who wrote the section on local government, said that if this already is part of the rule, then the comments are unnecessary. The Board members decided to remove the entire paragraph regarding local government.

Ms. Shields asked Dr. Flowers about the comment in the section on economic conditions/market about technology being unable to measure low nutrient criteria limits. The nutrient limits in her state are rather low, but the technology is available to measure at these limits, and she wondered whether the State of Florida's nutrient limits are much lower than other states. Ms. Labie explained that nutrient criteria are different than the limits that might be imposed on wastewater treatment facilities. Dr. Flowers said that the economic impact of these low limits on his state is \$55 billion. Mr. Lowry thought that these comments should be removed from the document. Dr. Flowers provided an example about phosphorus limits in Florida that will be impossible to remediate. Ms. Shields said that she understood that it is an expensive endeavor, but infrastructure is not a laboratory issue. Dr. Pletl agreed that he was having difficulty linking this issue with ELAB's charter. Ms. Labie thought that it needed to be re-emphasized that EPA must consider the current technologies when setting standards. Mr. Farrell summarized that the Board's comment was that before the Agency sets standards, it needs to develop analytical methods that can measure to the level of the standards.

Dr. Flowers thought that EPA is looking for expert opinions on these issues; the Agency looked to ELAB for advice on a broad variety of topics, so this particular discussion does not need to be limited to the charter. Mr. Speis suggested using the point that Dr. Pletl made supplemented with Dr. Flowers' example. Ms. Shields emphasized that the Board should say that EPA needs to ensure that the technologies are available to allow the laboratory community to meet the limits that are set. A Board member thought that technology developers needed to work with the Agency regarding development of methods that will help laboratories meet the requirements, which is a performance-based approach. Flexibility in performance-based methods is being encouraged, but then EPA also is being asked to provide direction and guidance.

Ms. Morgan did not believe mandated methods can be replaced, but the use of new methods and technology that are not yet promulgated can be encouraged; allowing this timeliness would increase options within the current system. Mr. Speis asked Ms. Morgan how she would phrase this for inclusion in the comments. Ms. Morgan said that more timely promulgation or more timely recognition of new technologies and new methods is needed. Many methods are ready to be used long before method updates. She would like to see the methods being brought on real time; there must be a real-time approval for new technology and methods. Mr. Speis asked whether the provisions in the recent Methods Update Rule would be sufficient regarding this issue; there were a good deal of procedural changes regarding new technology and altered methods.

Ms. Morgan still is concerned that the process will take a significant amount of time. If this is the case, a more streamlined process is needed. Mr. Speis suggested the following: "ELAB would encourage the use of a broader version of the ATP approach to accommodate situations in which current methodology or technology will not enable usage to demonstrate compliance with a specified limit." Ms. Morgan agreed with this language. Laboratories need to be able to apply technology to support certain permitting circumstances, and this flexibility is not available now.

Mr. Speis summarized the discussion; Dr. Flowers will revise the document to include points made in this discussion. Dr. Flowers stated that the Board members have an opportunity to encourage the Agency to move in a direction that will permit an infusion of innovation into the laboratory community that the members have not seen in their careers; this infusion should be the overall goal. This kind of innovation will produce economic revival in the industry and better

results in the laboratory community. This could be achieved if the comments are developed in the right manner.

Mr. Speis asked whether regulations drive technology or technology drives regulations. By including comments that indicate that EPA should allow for the use of technologies that have not been applied previously provides the opportunity to drive monitoring in a much more specific direction if needed; this type of language will provide benefit and break the current stagnation. Mr. Farrell reiterated Ms. Morgan's comment about streamlining the process so that it is faster. Ms. Shields thought that the members were discussing two different ways to approach the issue. She thought that ELAB was advocating eliminating method-by-method approval and setting criteria that allow laboratories to use any technology available that meets these criteria (performance-based approach), whereas Ms. Morgan mentioned a more streamlined approach to method promulgation. The Workgroup approach was to allow industry to deal with the methods. Ms. Morgan did not have a problem with this approach but had one concern. Laboratories that are certified generally are highly engaged with methods and method updates, but states without quality accreditation programs may have potentially unqualified personnel determining whether the data are valid. A Board member commented that although methods and technologies may be available, some may be prohibitively expensive; there is a need to encourage new technologies while remaining cognizant of potential increased costs to the laboratories.

Mr. Speis thought there was enough material for the Workgroup to refine the comments and develop the next draft. He proposed that the Laboratory Management Workgroup meet to revise the comments based on this discussion. Dr. Flowers will arrange a teleconference of the Workgroup during the following week to discuss the changes. After discussing their schedules, the Workgroup decided to meet on Tuesday, March 22, 2011, at 2:00 p.m. EDT; Ms. Michelle Wade will not be able to attend and will send her comments ahead of time. Mr. Speis asked the Board members to send their comments regarding Improving EPA Regulations to Dr. Flowers by March 22, 2011, so that they can be incorporated into the final document.

5. WORKGROUP ACTIVITY

Ms. Morgan provided an update for the Monitoring Workgroup, which is actively working on documents and information to place on the Web site. The Workgroup decided that the full Board should review the materials once they are ready. Ms. Morgan is working with Mr. Tony Petruska and Mr. Dale Bates, whom are both EPA regional personnel and are helping the Workgroup's efforts by providing pertinent information from EPA regional laboratories.

Mr. Lowry provided an update for the Measurement and Technology Workgroup. The Board members had been sent the letter to Mr. Greg Carroll (EPA) for their approval. Dr. Flowers thought that the comments regarding the proficiency testing (PT) frequency issue were weak; this is a timely topic that needs to be addressed thoroughly. His state is reviewing its entire regulatory structure based on economic issues, and ELAB should be making a statement in regard to the importance of PT frequency and emphasizing the Board's support of the Agency's "one PT" program. The letter does not seem to support this. Mr. Farrell asked if ELAB had agreed to support the one PT program. Mr. Lowry explained that the Workgroup had not. Dr. Flowers thought that it was premature to send the letter without more in-depth discussion. Mr. Lowry explained that Mr. Carroll had explained this issue, and his comments were captured

in the minutes of the December 2009 ELAB meeting; the regulations are written, and states make their own decisions on the issues. Dr. Flowers had thought that there would be changes after Mr. Carroll retired.

Mr. Farrell commented that the drinking water program requires one passed PT for each method per year. He wondered about the one-to-two PT issue if one PT already is written in the program. Second, in regard to the “two PT” issue, it is a state issue, and it is per technology and not per method. A Board member asked whether TNI was requiring two PTs per method. Dr. Flowers said that if ELAB is advocating TNI’s program, then indirectly the Board is advocating two PTs. He thought that ELAB should support EPA’s economic decision in creating the “one PT” program. He did not think that the Board should support the TNI program. He supported the one PT per method program in addition to the quality systems.

The Board members did not think that there was enough time during this teleconference to thoroughly discuss the letter and the issues behind it. Mr. Lowry was willing to hold the letter until ELAB can discuss it further. Mr. Speis placed this item on the agenda as one of the main discussion points for the April ELAB meeting. He instructed the Board members to examine the letter to Mr. Carroll and documents related to PT, develop talking points appropriate for ELAB, and determine what the next step will be.

Dr. Flowers had nothing to report on the state of national accreditation because of the shifted focus in providing comments on Improving EPA Regulations. Ms. Shields thought that some of the content of the comments for the Improving EPA Regulations document could be included in comments for the national accreditation issue. Mr. Speis agreed and said that the Workgroup will refocus once the comments for the Improving EPA Regulations are finalized and sent to EPA.

6. REVIEW ACTION ITEMS

Mr. Speis reviewed the status of the action items from the February 2011 Board meeting; those that were not completed have been carried over.

Regarding the action item that Mr. Speis contact Mr. Walker about whether the SW-846 policy updates will affect 40 CFR 503, Mr. Speis attempted to contact Mr. Walker but has not received a response to date. Mr. Speis examined 40 CFR 503 and based on this examination, he does not think that SW-846 will have an impact, but he will wait for Mr. Walker’s response.

Ms. Speis and Ms. LeBaron reviewed the action items identified during this meeting, which are listed in Attachment C.

Mr. Speis asked whether there were any additional topics for discussion. Dr. Flowers noted that an item that Board members should be aware of is that the state legislature of Florida ordered a review of its Department of Health and recently published its review. The review found that accreditation of laboratories is a nongovernmental function and should not be completed by the Department of Health or any other department. The state is working to privatize accreditation beginning on July 1, 2011, with the goal of completing the process by June 30, 2012; the Department of Public Health will cease accrediting laboratories within the next year. Mr. Speis thought that a bill would be needed to make such a change. Dr. Flowers stated that the laboratory accreditation program was the only program that the report determined should be privatized; the

report recommended that all other programs be eliminated. Ms. Labie said that there were no changes to the proposed legislation and that there still was language that needed to be addressed. Dr. Flowers agreed and noted that he only was making ELAB aware of the change.

Mr. Speis passed the ELAB Chairmanship to Ms. Morgan. He has enjoyed tenure as Chair and appreciated the professionalism and intelligence of the Board members. He thanked the members for their support during the previous 1.5 years. He congratulated Ms. Morgan. Ms. Morgan thanked Mr. Speis for his service and agreed that the ELAB members are a wonderful group. She stated that she takes the job proudly.

7. CLOSING REMARKS/ADJOURN

Mr. Speis thanked everyone for their attendance and participation. Dr. Flowers introduced a motion to adjourn the meeting, which Mr. Lowry seconded. Following a unanimous vote, Mr. Speis adjourned the meeting at 2:50 p.m.

Attachment A

AGENDA ENVIRONMENTAL LABORATORY ADVISORY BOARD

Monthly Teleconference: 866-299-3188/9195415544#

March 16, 2010; 1:00 – 3:00 p.m. (ET)

Opening Remarks/Mission Statement	Autry/Speis
Approval of January Minutes	Speis
General Updates (<i>as available</i>)	
Sufficiently Sensitive Methods	Pletl
Methods Update Rule (MUR)	Flowers
SW-846 Policy Follow-up with OW and Letter to ORCR	Speis
Recreational Water Quality Criteria Development	Root
Workgroup Activity (<i>in addition to any specific projects above</i>)	
Monitoring Workgroup	Morgan
Measurement/Technology Workgroup	Lowry
Laboratory Management Workgroup	Flowers
New Discussion	
ACIL Third Party Accreditation Position Paper	Speis
Separated DQO Issue from SW-846	Phillips
News/Updates/Discussion from DFO	Autry
Review Action Items	Speis
Closing Remarks/Adjourn	Autry/Speis

Attachment B**MEMBERSHIP LISTING AND GUESTS****ELAB TELECONFERENCE****March 16, 2010; 1:00 p.m. – 3:00 p.m. ET**

Attendance (Y/N)	Name	Affiliation
Y	Mr. David (Dave) N. Speis (Chair)	Accutest Laboratories Representing: American Council of Independent Laboratories (ACIL)
Y	Ms. Judith (Judy) R. Morgan (Vice-Chair)	Environmental Science Corp. Representing: Commercial Environmental Laboratories
Y	Ms. Lara P. Autry, DFO	U.S. Environmental Protection Agency Representing: EPA
N	Dr. Richard Burrows	Test America Inc. Representing: Commercial Laboratory Industry
Y	Mr. Eddie Clemons, II	Practical Quality Consulting Services Representing: Clients of QS Services
Y	Mr. John (Jack) E. Farrell, III	Analytical Excellence, Inc. Representing: The NELAC Institute (TNI)
Y	Dr. Jeff Flowers	City of Maitland, Florida Representing: Elected Officials of Local Government
Y	Dr. Reza Karimi	Battelle Memorial Institute Representing: Nonprofit Research and Development Organizations
N	Dr. H. M. (Skip) Kingston	Duquesne University Representing: Government Consortiums, Native Americans, and Academia
Y	Ms. Sylvia (Silky) S. Labie	Environmental Laboratory Consulting & Technology, LLC Representing: Third Party Assessors
Y	Mr. Jeffrey (Jeff) C. Lowry	Environmental Resource Associates Representing: Proficiency Testing Providers
Y	Mr. John H. Phillips	Ford Motor Company Representing: Alliance of Auto Manufacturers
Y	Dr. James (Jim) Pletl	Hampton Roads Sanitation District Representing: Municipal Environmental Laboratories
N	Ms. Patsy Root	IDEXX Laboratories, Inc. Representing: Laboratory Product Developers
Y	Ms. Aurora Shields	City of Lawrence, Kansas Representing: Wastewater Laboratories
Y	Ms. Michelle L. Wade	Kansas Department of Health and the Environment Representing: Laboratory Accreditation Bodies
Y	Dr. Michael D. Wichman	University of Iowa Hygienic Laboratory Representing: Association of Public Health Laboratories (APHL)

Attendance (Y/N)	Name	Affiliation
Y	Ms. Kristen LeBaron (Contractor)	The Scientific Consulting Group, Inc. (SCG)
Y	Ms. Paula Hogg (Guest)	Hampton Roads Sanitation District

Attachment C

ACTION ITEMS

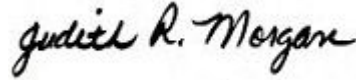
1. Ms. LeBaron will make the recommended changes to the February 2011 meeting minutes, finalize them, and send them to Ms. Autry via e-mail.
2. Ms. Morgan will send Ms. LeBaron the clarified statement regarding certification in the State of Georgia.
3. Dr. Pletl will contact Ms. Kelley to arrange a teleconference regarding the Sufficiently Sensitive Method Rule on March 30, 2011, at 1:00 p.m. EDT.
4. Dr. Wichman will compile the responses from the state environmental laboratory directors that he has received regarding the Recreational Water Quality Criteria and send them to the ELAB members.
5. The Board members will provide their comments regarding Improving EPA Regulations to Dr. Flowers via e-mail before Tuesday, March 22, 2011.
6. Mr. Speis will examine the comments that ELAB provided on the Sufficiently Sensitive Methods Rule and ensure that the comments on Improving EPA Regulations are consistent.
7. The Laboratory Management Workgroup will meet via teleconference on March 22, 2011, to finalize comments regarding Improving EPA's Regulations.
8. The Board members will examine the documents relating to PT and the letter to Mr. Carroll, develop talking points appropriate for ELAB, and discuss this issue during the April meeting.

The following action items from the February Board meeting were carried over:

9. Ms. Root will provide an update on Recreational Water Quality Criteria following the National Beach Conference.
10. The Measurement and Technology Workgroup will review EPA's DQO policy documents and prior ELAB work that references the DQO issue.
11. The Laboratory Management Workgroup will examine the issues affecting national accreditation and determine which topics should be brought forth during the March ELAB meeting.
12. Mr. Speis will continue to try to follow up with Mr. Walker to ascertain whether the SW-846 policy updates will affect 40 CFR 503.

Attachment D

I hereby certify that this is the final version of the minutes for the Environmental Laboratory Advisory Board Meeting held on March 16, 2011.

A handwritten signature in black ink that reads "Judith R. Morgan". The signature is written in a cursive style and is positioned above a horizontal line.

Signature Chair

Mr. David N. Speis — Judith R. Morgan

Print Name Chair