

- Regulatory Update



# ITLA

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## Regulatory Update

*By Bob Bentley*

In our last newsletter, we promised that we would update you in our next newsletter on regulatory trends. A fair amount of activity was indicated by the DEP at the last Laboratory Advisory Committee meeting. The ITLA felt that there were too many important issues present to wait. As a result, here is a special edition of the ITLA NEWS, which synthesizes the meeting.

### Perchlorate

- Has been found in more spots in the Commonwealth than had been “expected.”

Has been found in Tewksbury where all of their DW comes from the Merrimack River. They’ve found 20-40 ppb coming out of the WWTP and into the River. DEP is following this back to see who or what could be contributing.

- Most other sites (a couple in western MA, one in SE MA excluding MMR) have blasting associated with them. There may be some associated still with fireworks also. DWS says that there appears to be some persistence of perchlorate in groundwater although there is some microbiological attenuation.
- As you know, ITLA pushed hard to get other non-UCMR labs into the lab approval process. We have succeeded! Based on PT results, the LCO has opened the process up. Ann Marie Allen sent a letter to the lab community on Friday, Sept. 10<sup>th</sup> announcing the next round of PTs. If you need a copy, see me.
- EPA is supposed to be publishing an LC/MS/MS method “soon.” Everyone recognizes that this is a superior method, but it seems at times

that we are dealing with a regulatory agency that thinks glaciers move fast. There are some labs who have nine months of side-by-side data and who are currently using it for non-US samples with very good results.

- They are also working on an IC/MS method. But this is behind the LC/MS/MS method.

### MDLs for SOCs.

- Years ago, the New England region put together RADLs for many analytes, including the SOCs. Due to concerns about the concentrations being considered when reporting “non-detected,” there has been discussion on the EPA side that the limits listed in the Federal Register may be the limits that should be enforced. These are *much* lower than some of the present RADLs. DEP DWS has said that if EPA says that the Federal Register limit is the enforceable limit, this will become the *de facto* limit for DEP (this has the potential to impact many public water suppliers). If you have concerns about this, make

your feelings known with Art Clark of EPA Region 1.

#### LCO staffing

Staffing has been increased by 2 for microbiology. They have been in catch up mode for a while and hope to get on track in 2005.

#### LCO Regulations Revision

- The LCO is working on a revision to their regulations. They are proposing to include non-potable microbiology in this revision. This is meant to include beaches and swimming areas and will not include wastewaters. This could include methods 1600, 1603, Enterolert, fecal coliform, Colilert, etc. Through the use of non-membrane filter methods, this would allow expansion of certification programs to watershed associations. ITLA wonders aloud what effect this might have on LCO staffing and microbiological audits.
- Also, they are looking at expanding their authority to have purview over **any lab** which says they are certified to analyze drinking water and reports to Boards of Health, DPH, etc. As defined, ITLA believes that this could help level the playing field and assist in culling the bad apple(s).
- The LCO is looking to specifically define the analytical technique used to report coliform in drinking water. They have had some problems with a lab (or labs) who reports long after the coliform analysis is done, but within the limits as established (in one case this was 7 days after receiving the sample). However, the LCO is looking to **require** that coliform and *E. coli* presence or absence be demonstrated **within** 28 hours. In order to do this, DEP is looking at specifying in the regulations either a specific procedure to be used (defined substrate), or a specific time line which must be met (e.g., membrane filter with specific “fast” confirmatory tests for coliform and *E. coli*).
- The ITLA is concerned that by codifying this, the other EPA approved techniques will be

considered “unacceptable” even though they are fully acceptable. This is an evolving process, and ITLA intends to be in the forefront on this.

#### eDEP

- Due to other pressing needs and staffing shortages, this has been placed on hold. DWS indicates they hope to get this back on track, but also said that they are working on a different process at the same time. Stay tuned.

#### NELAC

Comments from a few of the attendees on the Savannah meeting yielded the following:

- EPA is continuing to diminish its role. With an Assistant Administrator retiring who had NELAC under his purview, there seems to be a bit more concern about the home within EPA.
- There is some discussion of moving NELAC to a 3<sup>rd</sup> party. How statutorily this would work has many people wondering.....
- The presentation on lab fraud was considered a “downer.” Some in EPA/NELAC wondered aloud if the pendulum had swung too far to the “all labs are committing fraud” side.
- Their overall take on the status of NELAC was that it was still pretty much without a rudder....

#### Microbiology

- Finally, DEP DWS asked for a list of ITLA members who would be willing to provide microbiology fee for service work on weekends. They appear to be having some trouble getting weekend work done. Anyone who is interested can let me know or contact Damon Guterman in DWS Boston directly.

If you know of other regulatory issues, please contact me or any member of the Executive Committee.

Submitted by:

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