



State of California—Health and Human Services Agency
Department of Health Services



California
Department of
Health Services
SANDRA SHEWRY
Director

ARNOLD SCHWARZENEGGER
Governor

November 10, 2005

TO: FORENSIC ALCOHOL ANALYSIS LABORATORIES

SUBJECT: THE FORENSIC ALCOHOL ANALYSIS PROFICIENCY TESTING PROGRAM

In response to legislation last year, the Department has convened a review committee to determine revisions to the Department's regulations pertaining to forensic and breath alcohol analysis. The committee is considering revisions to the current requirements for proficiency testing of forensic alcohol laboratories. At the October 25, 2005 meeting, one of the committee members suggested that the Department make participation in the current proficiency testing program "voluntary." We have consulted with our Office of Legal Services and we have been advised that participation in the Department's proficiency testing is not voluntary.

As described in the Department's advisory to the forensic alcohol laboratories dated January 31, 2005, the current regulations require the Department to evaluate the ability of a laboratory's forensic alcohol method(s) to meet the standard of performance requirements using the laboratory's proficiency test results [§1220.1.(b)]. Such ability must meet the requirements of the regulations. The regulations also stipulate that forensic alcohol analysis shall be performed only by persons who meet the qualifications set forth in the regulations for forensic alcohol supervisors, forensic alcohol analysts, or forensic alcohol analyst trainees [§1216.(a)(1)]. The regulations set forth requirements for such qualification, which include a successful performance in the analysis of proficiency test samples submitted by the Department [1216.1(e)(3) and 1216.1(f)(4)]. The law, H&S Code Section 100700(a) requires laboratories performing forensic alcohol analysis to comply with the current regulations until such time as these regulations are revised.

Currently, the Department conducts proficiency testing of the 41 forensic alcohol laboratories in the state three times a year in order to enable these laboratories to satisfy the aforementioned requirements of the regulations. The Department will continue to require that laboratories participate in these proficiency tests.

Thank you for your ongoing support of the Forensic Alcohol Regulatory Program and your cooperation in maintaining reliable forensic alcohol analysis in the State.

Mary Soliman, Ph.D., Chief
Food and Drug Laboratory Branch