

**Hearing of the Joint Commission on Administrative Rules
Regarding Environmental Laboratory Certification Regulations**

**Comments of Mark Estes
Town of South Boston**

December 12, 2007

Mr. Chairman and Members of the Commission:

Thank you for allowing me to address the commission today regarding lab certification regulations.

My name is Mark Estes and I am Superintendent of Utilities for the Town of South Boston. I am here today representing the concerns of those localities operating small municipal wastewater systems such as those in Halifax County along the southern border of Virginia, including Virginia International Raceway.

We are large county in area, small in population and at best marginal in development and employment opportunities. Tobacco and textiles are history and we are constantly facing new fees and regulations having minimum benefit and substantial costs to our customers and your constituents.

We are very proud of the performance of our small labs. We strongly disagree with the assumption or implication of this rulemaking that our labs are unable to produce lab results suitable for the Commonwealth's environmental management purposes without a paperwork and resource intensive NELAC program.

DCLS' present certification system for WATER systems has served Virginia well in overseeing the lab work for our drinking water supplies. This past success in Virginia's WATER programs proves that a national "oversight" association (NELAC) is unnecessary for WASTEWATER.

Of course, NELAC will only prove more costly too, and that is another important reason to question whether NELAC is truly necessary and beneficial to Virginia's citizens.

Basically all of the data used to develop Virginia's present environmental laws, regulations, programs and impact assessments was developed WITHOUT the NELAC program. Virginia has strong environmental requirements and a good track record of environmental improvement.

It is important for Virginia to maintain primacy and autonomy when regulating so many

municipal, industrial and commercial facilities, rather than essentially yield State power to a national organization which had as its goal a voluntary certification program, not a regulatory program. This is critical to preserving the ability of the Commonwealth to act in Virginia's own the best interests in this area.

Laboratory analysis in Virginia should be performance-based rather than the highly prescriptive approach in these NELAC-based regulations. Virginia's environmental agencies have a long and successful history of ensuring compliance through enforcement including fines when necessary. Appropriate laboratory requirements combined with a reasonable inspection and enforcement program should be our approach.

We should also think about citizen groups, who try to protect our natural resources and publicize environmental impacts through stream sampling and water quality analysis. Many of these groups commented negatively on the regulations. We question whether they will be able to afford to sample and test under these regulations, or at least without additional state funding or other grants. We should all be very concerned about the impacts of these requirements on those very groups who have helped to contribute so much to our awareness of environmental issues and concerns.

In closing, there appears to be only twelve (12) states in our entire nation that have elected to buy into the NELAC approach. Oversight of Virginia labs through the standards of a failing non-profit, national "watchdog" association is unhelpful and would present a financial hardship to those small public wastewater labs operating with marginal revenues and to their ratepayers. This additional, heavy layer of regulation and bureaucracy is not needed, nor would it provide any meaningful benefit, especially at the local level in rural Virginia. If this going to be a certification program for wastewater labs in Virginia, we can do much better than NELAC.

Thank you for your time and consideration.