

cc: Chris Allen + Tracy
Mahan
11-15-01

This letter was sent to the members of the Senate & House Environmental Resources & Energy Committees.

Please Note: Our New Fax Number is 717-787-2878

November 14, 2001

«Name»
«DEP_House_Senate»
«PO_Box_Address»

Dear «Formal_Sal»:

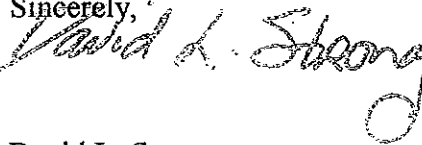
The Citizens Advisory Council has reviewed the proposed Environmental Laboratory Accreditation Legislation (SB 1115, PN 1395 and HB 2044, PN 2736). These bills require the Department of Environmental Protection (DEP) to establish an accreditation program for environmental laboratories generating data or performing testing to demonstrate compliance with environmental statutes. Currently, DEP only requires accreditation of environmental testing laboratories under the drinking water, oil and gas, and radon testing programs. For all other areas, the primary responsibility for data quality falls on the permit holder, not the lab. This legislation will make the lab responsible for the data it produces.

Council endorses the objectives of the bills. Establishing an accreditation program for laboratories conducting environmental testing will add credibility and accountability to a process critical to environmental decision-making. While we endorse the objectives, we raise the following questions:

- HB 2044 PN 2736 closely tracks SB 1115, but also provides that an employee of an environmental lab covered by the act is protected by the Whistleblower Law in regard to good faith reports of potential violations of the act. Council concurs with adding this whistleblower protection, and recommends that it be included in final legislation.
- The cost of accreditation may be a problem for small and captive labs which may not do enough work in a year to cover the \$5000 processing fee. Council asks that this concern be taken into consideration when deliberating fees.
- Requiring accreditation may force some labs out of business. As stated above, the cost of accreditation is one consideration; the flip side is the cost of inadequate or undependable data. While we need to be sensitive to adding to the cost of doing business, laboratories that cannot meet minimum standards should not be permitted to provide critical environmental testing. The intent of this legislation is to improve data quality, which is important for environmental health issues such as drinking water and radon.

- An educational component is critical, for both laboratories and users of environmental laboratories. Users need to know that the cost of testing may increase to cover accreditation, but they also need to know why this is occurring, and that they can more readily depend on the data they receive.
- The legislation provides for a laboratory supervisor (Section 6), who becomes the single responsible party for the laboratory. What are the minimum requirements to be a lab supervisor? If this is intended to be a safeguard similar to having a Professional Engineer sign off on engineering plans, then should there be a special certification for lab supervisor?
- Labs are required to notify their customers within 72 hours of receipt of a notice that their accreditation is being suspended or revoked. Is this intended to be 72 hours, or 3 working days? What if the lab receives such notice on a Friday; must they notify all customers by Monday? Is the lab only required to notify customers who have current testing going on, or must they also notify past customers? If they are required to notify past customers, how far back?

Thank you for the opportunity to review and comment on this legislation. Please call Sue Wilson, Council's Executive Director, at (717) 787-4527 if you have any questions.

Sincerely,


David L. Strong
Chairperson

cc: Dave Hess