



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
Street address: 629 East Main Street, Richmond, Virginia 23219
Mailing address: P.O. Box 1105, Richmond, Virginia 23218
TDD (804) 698-4021
www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

TO: REGIONAL DIRECTORS
DIRECTOR, OFFICE OF AIR COMPLIANCE
DIRECTOR, OFFICE OF AIR PERMITS
REGIONAL AIR COMPLIANCE MANAGERS
REGIONAL AIR PERMITS MANAGERS

CC: DEPUTY DIRECTOR FOR OPERATIONS
CHIEF DEPUTY DIRECTOR

FROM: MICHAEL G. DOWD – DIRECTOR, DIVISION OF AIR QUALITY

RE: VELAP – AIR PROGRAM REQUIREMENTS

DATE: 3/16/2012 (Revised 5/1/2012)

Purpose and Applicability

This guidance is provided to clarify requirements of the Virginia Environmental Laboratory Accreditation Program (VELAP) as they relate to DEQ's Air Program. By the nature of the media, much of the emissions data provided by regulated air sources is field tested/measured at the site where the sample is taken. However, if the sample analysis must be performed off-site by an environmental laboratory, then that laboratory must meet VELAP certification/accreditation requirements for the analytes being tested (also known as a laboratory's Field of Certification/Accreditation).

Background

Under Section [2.2-1105](#) of the Code of Virginia, VELAP was established to certify/accredit environmental laboratories that perform tests, analyses, measurements or monitoring required pursuant to the Commonwealth's air, waste and water laws and their associated regulations. It became effective on January 1, 2009, and is found at 1 VAC 30, [Chapter 45](#) (Certification for Noncommercial Environmental Laboratories), and 1 VAC 30, [Chapter 46](#) (Accreditation for Commercial Environmental Laboratories).

Specifically, these regulations require certification/accreditation after January 1, 2012, for all laboratories that analyze data used for purposes of the Virginia Air Pollution Control Law, the Virginia Waste Management Act or the State Water Control Law (§10.1-1300 et seq., §10.1-1400 et seq., and §62.1-44.2 et seq., respectively).

Responsibility of Regulated Community

Air program staff should use the guidance set forth in the following section when a source submits analytical data from a laboratory to DEQ for the purpose of satisfying requirements of the State Air Pollution Control Law (§10.1-1300 et seq.) and regulations of the State Air Pollution Control Board. The regulated community must ensure that such analyses (for each analyte) are performed by an environmental laboratory that has been certified/accredited in accordance with 1 VAC 30 Chapter 45 and/or 1 VAC 30 Chapter 46. Otherwise, the results of the sample analyzed will not be acceptable for permitting, compliance, and emissions inventory purposes.

A laboratory may obtain certification/accreditation from the Virginia Department of General Services' Division of Consolidated Laboratory Services (DCLS). Any questions regarding whether a specific laboratory has VELAP certification/accreditation for a specific analyte should be submitted by email to Lab_Cert@dgs.virginia.gov. DCLS provides information about this process at the following website:

<http://www.dgs.state.va.us/DivisionofConsolidatedLaboratoryServices/Services/EnvironmentalLaboratoryCertification/tabid/1059/Default.aspx>.

DEQ Guidance

Compliance

- Documentation demonstrating VELAP certification/accreditation for the analytes being tested must be submitted to the DEQ regional office responsible for review and evaluation of the data. The following is a non-exhaustive list of illustrative scenarios where failure to demonstrate VELAP certification/accreditation will result in the rejection of the submitted data:
 - Stack Test Protocols – If VELAP documentation is not submitted with the protocol, or at a time in advance of the testing event acceptable to the respective DEQ regional office, the protocol must be rejected. Prior to testing, the source must be informed that the rejected protocol may also result in rejected test results.
 - Stack Test Data – If VELAP certification/accreditation cannot be confirmed for applicable data submitted to demonstrate compliance with emissions or parametric standards the stack test must be rejected.
 - Periodic Monitoring Data – If VELAP certification/accreditation cannot be confirmed for applicable data submitted to demonstrate compliance with periodic monitoring requirements the submitted report must be rejected.
- It is important to note that failure to submit data from a certified/accredited environmental laboratory will not be considered non-compliance by itself. To clarify, if a

source submits data from an un-certified/un-accredited environmental laboratory to satisfy a testing, monitoring, or reporting requirement, the data must be rejected. If the data is rejected, however, the source may become out of compliance with the underlying testing, monitoring, or reporting requirements it was attempting to satisfy with the submitted data.

- If a source is out of compliance with an applicable requirement as a result of DEQ's rejecting data due to the source's failure to demonstrate VELAP certification/accreditation, an appropriate enforcement action should be taken to address that non-compliance. It is appropriate, however, for DEQ Air Program Staff to "phase-in" enforcement for non-compliance with VELAP certification/accreditation requirements until June 30, 2012, in order to allow sources to adjust to the new program and make appropriate arrangements with VELAP accredited/certified laboratories.
 - During the phase-in period, DEQ should work with sources to remedy non-compliance resulting from failure to demonstrate VELAP certification/accreditation informally through direct communication, notifications, and/or warning letters.
 - Following the Phase-In period, non-compliance resulting from failure to demonstrate VELAP certification/accreditation should be addressed through appropriate enforcement action in accordance with DEQ's Enforcement Manual.
- When non-compliance related to VELAP certification/accreditation is identified, DEQ Regional Air Program Staff will discuss it with DEQ Central Office Air Program Staff who in turn will provide appropriate information to DCLS. Reciprocally, DCLS will keep DEQ Central Office Air Division Staff informed of any VELAP suspensions so this information can be provided to DEQ Regional Office Air Division Staff.
- If there is any question about the application of VELAP requirements, what should be considered non-compliance, or what level of enforcement action is appropriate for non-compliance resulting from failure to demonstrate VELAP certification/accreditation for submitted data, DEQ Regional Air Program Staff should consult with DEQ Central Office Air Division Staff.

Permitting

- Permits issued after 1/1/2012 should include the following statement "*Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.*"
- This statement should be added to the end of permit conditions that require a source to collect samples¹ for analysis by an environmental laboratory.
- This statement should not be added as a stand alone condition of the permit.
- This language also should be added to air permit boilerplates where applicable.

¹ Materials specification testing (i.e., fuels, coatings, etc.) was exempted from the definition of environmental analysis in both 1VAC30-45 and 1VAC30-46 via a DCLS memorandum dated 4/26/2012.

Multimedia Information

As indicated above, VELAP requirements have the potential to impact all media – air, water, and waste. This memorandum is provided to specifically address air program issues as they pertain to VELAP. Related water and waste issues are addressed by separate memoranda.

Disclaimer

This guidance is not intended to cover every possible situation but should be applicable in most scenarios. Check with regional or central office management if deviation from this guidance is considered appropriate. In addition, while the potential for such liability is minimal, this guidance may not provide relief to a facility from legal action taken under the citizen suit provisions of the Clean Air Act, other than to serve as DEQ's interpretation of a state regulation that it is charged with implementing.