

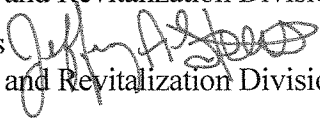
MEMORANDUM
Department of Environmental Quality
Division of Land Protection & Revitalization

Mail Address:
P.O. Box 1105
Richmond, VA 23218

Location:
629 East Main Street
Richmond, VA 23219

SUBJECT: Guidance Memo No: LPR-SW-03-2012
Land Protection & Revitalization Division Implementation of VELAP Certification

TO: Land Protection and Revitalization Division Office Directors

FROM: Jeffery A. Steers 
Land Protection and Revitalization Division Director

DATE: March 27, 2012

COPIES: Regional Directors, Regional Land Protection Managers, Regional Ground Water Managers, James Golden

Summary:

The Virginia Environmental Laboratory Accreditation Program (“VELAP”) became fully effective on January 1, 2012. Under this program, parties submitting data to the Department for compliance with statutory, regulatory, or permitting requirements must use a VELAP certified laboratory for the analysis of the data submitted to the Department. This Guidance is designed to broadly outline how the Division will implement VELAP.

Electronic Copy:

An electronic copy of this guidance is available on the Virginia Regulatory Town Hall website at: <http://townhall.virginia.gov/L/GDocs.cfm?boardid=119>

Contact Information:

Please contact Justin Williams at 804 698-4185 or Justin.Williams@deq.virginia.gov with any questions regarding the application of this guidance

Disclaimer:

Guidance documents do not establish a binding norm and are not determinative of the issues addressed. Decisions in individual cases will be made by applying the laws, regulations, and policies of the Commonwealth to case-specific facts.

I. Background

The Virginia Environmental Laboratory Accreditation Program (“VELAP”) became effective on January 1, 2009, per Virginia Regulations 1 VAC 30, Chapter 45: Certification for Noncommercial Environmental Laboratories, and 1 VAC 30, Chapter 46: Accreditation for Commercial Environmental Laboratories. Under Chapter 46, Virginia’s Division of Consolidated Laboratory Services will offer accreditation to commercial laboratories in accordance with the 2003 NELAC Standard.

Under Chapter 46, once the program has been established, laboratory accreditation will be required before any environmental analyses performed by a commercial environmental laboratory may be used for the purposes of the Virginia Air Control Law, the Virginia Waste Management Act, or the State Water Control Law. The VELAP accreditation program was established on January 1, 2012.

Each program within the Land Protection & Revitalization Division (“Division”) generally has requirements which include the submission of sampling data. This Guidance is designed to broadly outline how the Division will implement VELAP.

II. Data Submitted between January 1, 2012 and July 1, 2012

Prior to July 1, 2012, the Division will continue to remind the regulated community of the requirement to use a VELAP accredited laboratory for all data, analysis, and samples submitted to the Department; however, the Division will not be confirming compliance with VELAP requirements or taking action for failing to submit data from a VELAP certified laboratory. Each media within the Division will determine the best method to continue to notify the regulated community.¹

The Division will also be including in agreements with contractors the requirement to use a VELAP certified laboratory. Also, the regulated community should begin using a VELAP certified laboratory during this period.

III. Data Submitted after July 1, 2012

After July 1, 2012, the Division will fully implement required compliance with the VELAP program. The primary method of ensuring compliance will be through an audit of data submitted to the Division. Regional Office staff will not be responsible for independently verifying or noting compliance with the VELAP. The Division Auditor will be conducting a quarterly review of randomly selected sampling data submitted to the Division to confirm compliance. This review will include 10% of facilities who submitted qualifying data during that quarter.² If non-compliance is alleged, the Division Auditor will notify the appropriate media program contact. Upon notification, the media program will act in accordance with its established policy or procedure. Such action may include rejecting the data, requiring re-

¹ For example, in solid waste, a statement is being added 2011 Annual Reports reviewed during this period to remind the regulated community of the VELAP requirement.

² A procedure for conducting this audit will be established separate from this Guidance Document.

sampling, denial of reimbursement for the sampling costs where applicable, and escalating enforcement action.³

Under the Underground Storage Tank Regulation, Aboveground Storage Tank Regulation, or as directed in response to a discharge of oil under Article 11 of the State Water Control Law, the costs for analyzing the samples as well as all associated costs for collecting the samples may not be eligible for reimbursement. In addition, any report submitted to DEQ containing laboratory analyses from a laboratory without proper accreditation may be considered incomplete. Costs to correct a report deemed incomplete, including additional sampling, may not be eligible for reimbursement.

The requirement to use a VELAP certified laboratory does not extend to all programs or sites within the Division. Examples of these programs or sites include the federal facilities program, Superfund sites until Virginia is the lead on the site, and unpermitted Resource Conservation and Recovery Act sites. It is the responsibility of the responsible party to check with the appropriate program within the Division to determine if compliance is not required.

If a VELAP certified laboratory does not exist for a required parameter or method, then the responsible party should consider use of an alternative method under the regulatory requirements if applicable and they should request that a laboratory obtain VELAP accreditation for the required parameter or method, but can continue to use a non-VELAP certified laboratory until a laboratory is certified for the required parameter or method. The responsible party should ensure prior to each sampling event that a VELAP-certified laboratory is not available prior to using a non-VELAP certified laboratory.

³ Each program within the Division will establish separate policies or procedures from this Guidance Document or include non-compliance with VELAP within existing policies or procedures.