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SENATE BILL NO. 1039

Offered January 14, 2009

Prefiled January 13, 2009

A *BILL to direct the Division of Consolidated Laboratories to enter into a memorandum of understanding with the Department of Environmental Quality to perform laboratory inspections in conjunction with other inspections conducted by the Department, and to amend and reenact § 2.2-1105 of the Code of Virginia, relating to the environmental laboratory certification and inspection.*

 Patron—Hanger

 Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. § 1. *The Division of Consolidated Laboratories shall enter into a memorandum of understanding with the Department of Environmental Quality whereby the Department of Environmental Quality shall continue to perform inspections of environmental laboratories certified in accordance with § 2.2-1105 of the Code of Virginia coincident with its plant inspections so that the goals and requirements of Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1, the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.) of the Code of Virginia may be met.*

2. That § 2.2-1105 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-1105. Environmental laboratory certification program.

A. The Division shall by regulation establish a *performance based* program for the certification of laboratories conducting any tests, analyses, measurements, or monitoring required pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1, the Virginia Waste Management Act (§ 10.1-1400 et seq.), or the State Water Control Law (§ 62.1-44.2 et seq.). The program shall include, but need not be limited to, minimum criteria for (i) laboratory procedures, (ii) performance evaluations, (iii) supervisory and personnel requirements, (iv) facilities and equipment, (v) analytical quality control and quality assurance, (vi) certificate issuance and maintenance, (vii) recertification and decertification, and (viii) granting partial and full exemptions from the program based on compliance and performance. ~~The regulations shall be promulgated only after adoption of national accreditation standards by the National Environmental Laboratory Accreditation Conference sponsored by the United States Environmental Protection Agency.~~ The purpose of the program shall be to ensure that laboratories provide accurate and consistent tests, analyses, measurements and monitoring so that the goals and requirements of Chapter 13 of Title 10.1, the Virginia Waste Management Act, and the State Water Control Law may be met.

B. Once the certification program has been established, laboratory certification shall be required before any tests, analyses, measurements or monitoring performed by a laboratory after the effective date of such program may be used for the purposes of Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1, the Virginia Waste Management Act, and the State Water Control Law. *However, certification shall not be required of any laboratory facility or entity that only performs field testing.*

C. The Division shall by regulation establish a fee system to offset the costs of the certification program. The regulations shall establish fee categories based upon the types of substances for which tests, analyses, measurements or monitoring are performed. The fees shall be used solely for offsetting the costs of the laboratory certification program.

D. The Division shall develop procedures for determining the qualifications of laboratories located in jurisdictions outside of Virginia to conduct tests, analyses, measurements or monitoring for use in Virginia. Laboratories located outside of Virginia that are certified or accredited under a program determined by the Division to be equivalent to the program established under this section shall be deemed to meet the certification requirements.

E. In addition to any other penalty provided by law, laboratories found to be falsifying any data or providing false information to support certification shall be decertified or denied certification.

F. Any laboratory subject to this section may petition the Director of the Division for a reasonable variance from the requirements of the regulations promulgated under this section. The Division may grant a reasonable variance if the petitioner demonstrates to the Director's satisfaction that (i) the proposed variance will meet the goals and purposes of the provisions of this section or regulation promulgated under this section, and (ii) the variance does not conflict with federal or state law or regulations. Any petition submitted to the Director is subject to the Administrative Process Act (§ 2.2-4000 et seq.).

INTRODUCED

SB1039