



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of General Services, Division of Consolidated Laboratory Services
<b>Virginia Administrative Code (VAC) citation</b>	1VAC30-41 (new) and 1VAC30-40 (repeal)
<b>Regulation title</b>	Certification of Laboratories Analyzing Drinking Water
<b>Action title</b>	Revise regulation to meet current guidance under the federal Safe Drinking Water Act and to update fees
<b>Date this document prepared</b>	December 15, 2010; revised May 26, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.*

This proposed action updates the drinking water laboratory certification regulation to incorporate by reference the most recent federal guidance used to certify drinking water laboratories, the Environmental Protection Agency's (EPA's) *Manual for the Certification of Laboratories Analyzing Drinking Water*, Fifth Edition (January 2005) and *Supplement 1* to the Fifth Edition (June 2008). Drinking water laboratories are required to meet this federal guidance.

This action completes the process to revise the drinking water laboratory certification regulation to meet current federal requirements. This process began with the February 3, 2010, exempt action final regulation that updated 1VAC30-40 to incorporate by reference current federally approved analytical test methods and related requirements from the *Code of Federal Regulations*. EPA requires states holding primary enforcement authority (primacy) under the federal Safe Drinking Water Act (SDWA) to meet current federal requirements for the certification of drinking water laboratories.

The proposed action revises the fee provisions. Local, state and federal public laboratories as well as private or commercial laboratories will be required to pay fees under the proposed regulation. DCLS currently waives fees for public laboratories. Requiring all laboratories seeking certification for drinking water to pay a fee creates a more equitable fee system for the program.

The proposal adds an alternative for drinking water laboratories to obtain certification. EPA allows drinking water laboratories to obtain certification by meeting the TNI's environmental laboratory accreditation standards. Virginia became a TNI accreditation body in November 2009. Drinking water laboratories may meet 1VAC30-46, *Accreditation for Commercial Environmental Laboratories*, as an alternative to meeting the drinking water laboratory certification regulation.

1VAC30-41 replaces 1VAC30-40 in this regulatory action. 1VAC30-41 contains the revisions made to 1VAC30-40 in the recent exempt action. Proposed regulation 1VAC30-41 sets out the requirements to certify laboratories that analyze drinking water samples used to determine compliance with federal SDWA contaminant limits.

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## Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

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"DCLS" means the Division of Consolidated Laboratory Services of the Department of General Services.

"EPA" means the U.S. Environmental Protection Agency.

"EPA Manual" or "Manual" means the Environmental Protection Agency's (EPA's) *Manual for the Certification of Laboratories Analyzing Drinking Water*, Fifth Edition (January 2005).

"Primacy" means primary enforcement authority.

"SDWA" means the federal Safe Drinking Water Act (42 USC 300f *et seq.*).

"Supplement" means *Supplement 1* to the Fifth Edition (June 2008) of the Manual.

"TNI" means the National Environmental Laboratory Accreditation Conference (NELAC) Institute.

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## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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### Federal Legal Authority

Under the federal SDWA (42 USC 300f *et seq.*), EPA sets national limits on contaminant levels in drinking water to ensure that the water is safe for human consumption. The federal regulations at 40 CFR 142.10 (b)(3)(i) require the establishment and maintenance of a State program for the certification of laboratories conducting analytical measurements of drinking water contaminants pursuant to the requirements of the State primary drinking water regulations. To determine compliance under the SDWA, EPA at 40 CFR 141.28 requires that the analysis of samples must be made by certified laboratories.

### Virginia Legal Authority

Section 2.2-1102 A 1 of the *Code of Virginia* authorizes the Department of General Services to prescribe regulations necessary or incidental to the performance of the Department's duties or execution of powers conferred by the *Code*. The statutory authority to promulgate regulations is discretionary based on whether the proposed regulation is "necessary or incidental to the performance of the Department's duties or execution of powers conferred" by the *Code of Virginia*.

Section 2.2-1102 A 2 of the *Code of Virginia* authorizes the Department of General Services to establish fee schedules that may be collectible from users when general fund appropriations are not applicable to the services rendered.

Section 2.2-1104 A 4 of the *Code of Virginia* authorizes the Division of Consolidated Laboratory Services to establish and conduct programs of inspection and certification of other laboratories in the Commonwealth as mandated by the federal Safe Drinking Water Act and state requirements pursuant to the Act.

Promulgating Entity

The promulgating entity for this regulation is the Division of Consolidated Laboratory Services of the Department of General Services.

**Purpose**

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

Public health is protected when drinking water laboratories meet established federal standards for analyzing drinking water samples.

The SDWA is carried out in Virginia by the Department of Health. The Waterworks Regulation (12VAC5-590) promulgated by the Department of Health sets standards for the maximum permissible level of contaminants in drinking water. The regulation at 12VAC5-590-340 requires all analyses for the purpose of demonstrating compliance with the primary and secondary maximum contaminant levels or action levels be performed by DCLS or by laboratories certified by DCLS for such purposes. 12VAC5-590-440 requires all laboratories that seek certification to perform drinking water analyses to comply with the drinking water laboratory certification regulation promulgated by DCLS. The Department of Health is the agency with the primary enforcement authority (primacy) to carry out the SDWA in Virginia.

The proposed regulatory action is necessary to ensure that current federal requirements are set out in the drinking water laboratory certification regulation. Maintaining primacy for drinking water in Virginia requires the drinking water laboratory certification regulation to incorporate the most current federal guidance and regulatory requirements.

The proposed regulatory action revises the fee provisions to allow DCLS to charge fees to public as well as private laboratories to cover the cost of the certification program. The fees currently charged to the laboratories certified under the regulation do not cover the cost of the program.

**Substance**

*Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)*

The proposed action repeals the current regulation and creates a new regulation. The latest EPA guidance and agency procedures are set out in the proposed new regulation.

The current drinking water laboratory certification regulation requires laboratories to meet the newest edition of the EPA Manual when published (1VAC30-40-80) while citing the 1992 edition of the EPA

Manual for the certification of drinking water laboratories. EPA published the fifth edition of the Manual in June 2005 and a Supplement to the Manual in June 2008. The drinking water laboratories certified under 1VAC30-40 already meet this latest edition of the EPA Manual and the Supplement due to the 1VAC30-40-80 requirement.

Because there were numerous changes to the current regulation, a new 1VAC30-41 is being proposed. The current 1VAC30-40 will be repealed when 1VAC30-41 becomes effective. The revisions made to 1VAC30-40, effective on February 3, 2010, are included in proposed new 1VAC30-41.

The following are the substantive changes to the current regulation. The references are to proposed new 1VAC30-41.

1. Removes the references to outdated versions of the EPA Manual. Lists the most recent version of the EPA Manual and the Supplement in section 1VAC30-41-50 and incorporates these documents by reference.
2. Removes from the regulation the provisions in current Part III through Part V that were included verbatim from outdated versions of the EPA Manual. Replaces these provisions with the requirements from the most recent version of the EPA Manual as incorporated by reference into 1VAC30-41-50. The regulatory provisions refer to the appropriate requirements in the EPA Manual and its Supplement.
3. Deletes the general fee provisions of current 1VAC30-40-60. Adds new fee provisions in 1VAC30-41-270. Public laboratories as well as private laboratories would pay fees.
4. Adds a new provision, 1VAC30-41-30, allowing drinking water laboratories to obtain certification by meeting the requirements of 1VAC30-46, *Accreditation for Commercial Environmental Laboratories*.
5. Revises many of the provisions in Parts I and II of the current regulation. These provisions lacked specificity and a few had out-of-date references. These provisions have been updated and made more specific. These sections cover definitions, application requirements, reciprocal certification, renewal of certification, modification of certification, general quality assurance requirements, on-site assessment, certification type, maintenance of certification status, reporting requirements, reasons to downgrade laboratory to provisionally certified status, procedure to downgrade a laboratory to provisionally certified status, reasons to revoke certification, procedure to revoke certification, appeal, and requesting reinstatement of certification.
6. Adds new provisions where needed to improve the clarity of the regulation or to include necessary requirements where there are none in the current regulation. These new provisions are listed below.
  - a. Section 20 defines the laboratories and contaminants that are covered by the regulation.
  - b. Section 60 describes the categories for which a laboratory may be certified.
  - c. Section 80 describes the requirements laboratories must meet to become certified and provides cross-references to the detailed requirements.
  - d. Section 130 establishes the requirements for proficiency testing.
  - e. Section 140 requires laboratories to meet the laboratory ethics and fraud detection and deterrence requirements of the Supplement. EPA encourages laboratories to meet these requirements.
  - f. Section 170 establishes a one-year term for certification.

- g. Section 200 sets out specific requirements for major changes to personnel and equipment at a laboratory and for a change to laboratory location.
  - h. Section 460 sets out the quality assurance requirements for microbiology laboratories.
7. Current 1VAC30-40-85 has been moved to 1VAC30-41-55. This section lists and incorporates by references the *Code of Federal Regulation* requirements for drinking water laboratory test methods and associated requirements.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.*

The primary advantage to the public is to maintain an up-to-date regulation governing the certification of laboratories analyzing drinking water. While the drinking water laboratories are already meeting the provisions of the proposed regulation, the current regulation does not contain these provisions. As a result the agency cannot enforce compliance with the most up-to-date federal guidance requirements for the certification of these laboratories. Revising the regulation provides the agency with the ability to enforce these requirements. There are no disadvantages to the general public associated with this regulatory action.

There are two primary advantages to the agency and the Commonwealth associated with this regulatory action. The first is the ability to enforce the most up-to-date federal guidance on the certification of drinking water laboratories and therefore to maintain Virginia's primacy for drinking water rather than having primacy relinquished to EPA. The second relates to the fees charged to laboratories for the certification process. Current fees cover only a minimal portion of the cost of the program. No general funds have been allocated to cover the cost of the certification program. The current regulation waives fees for public laboratories. The proposed regulation would eliminate the waiver and charge fees to public laboratories. One-third of the laboratories certified under the program are public laboratories. The cost to the agency of running the program has increased over the almost two decades since DCLS began charging fees. Charging fees to public laboratories as well as to private laboratories will help to recover the cost of the program to the agency. Spreading the cost of the program among all the laboratories certified under the program will be a more equitable approach to fees.

The primary disadvantage of the proposed regulatory action is to the public laboratories in that they will now be charged fees. The revised regulation charges fees to public laboratories as well as to private laboratories.

**Requirements more restrictive than federal**

*Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no requirements more restrictive than federal requirements. The fees fund the program and are in addition to and not part of the federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

Localities that have drinking water laboratories associated with their drinking water plants are affected by this regulatory action. This proposed action charges fees for the first time to certified drinking water laboratories owned by localities.

**Public participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

In addition to any other comments, the agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Town Hall website, [www.townhall.virginia.gov](http://www.townhall.virginia.gov), or by mail, email or fax to Nancy S. Saylor, in c/o DCLS, 600 North 5th Street, Richmond, VA, 23219, [nssaylor@verizon.net](mailto:nssaylor@verizon.net), 804-231-7980 (phone) or 804-371-7973 (fax). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last date of the public comment period.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements creates the anticipated economic impact.*

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.</b></p>	<p><u>Cost:</u> \$244,000 per year.  <u>Fund source:</u> Total fees collected from all participating laboratories, public and private.  <u>Expenditures:</u> These are ongoing expenditures only.</p>
<p><b>Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.</b></p>	<p>Drinking water laboratories owned by local, state or federal governments that are certified or may</p>

	<p>become certified to test water samples for drinking water are affected by the proposed revision. These public laboratories currently are not charged a fee for certification. Under the proposed regulation, these laboratories would be charged a fee. The fee each laboratory would pay will vary depending on the categories for which the laboratory seeks certification. The cost of the proposed revision is limited to fees because the laboratories are already meeting the requirements established through the revisions to the regulation. The total fees to be paid under this proposal by public laboratories currently certified for drinking water are estimated at \$71,500 or 29 percent of the \$244,000 total program cost.</p>
<p><b>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</b></p>	<p>Commercial laboratories that are certified or may become certified to test water samples for drinking water are also affected by this proposed revision. However laboratories certified for drinking water already meet the requirements established through the revisions to the regulation.</p>
<p><b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>DCLS estimates that 52 localities or other governmental entities would pay a fee for the first time. DCLS estimates 94 private laboratories already pay fees. An estimated 60 percent of these private laboratories may be categorized as small businesses.</p>
<p><b>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</b></p>	<p>The laboratories that are currently certified already meet the requirements of the revised regulations with the exception of fees for public laboratories.</p> <p>DCLS estimates that 52 localities or other governmental entities would pay a fee for the first time. The fee each laboratory would pay will vary depending on the categories for which the laboratory wants to become certified. See the fee estimates for public laboratories set out above.</p> <p>Commercial laboratories would pay a total of \$172,320 in fees or approximately 71 percent of the total program cost of \$244,000.</p>
<p><b>Beneficial impact the regulation is designed to produce.</b></p>	<p>The revisions to the regulation protect public health by ensuring that drinking water laboratories meet federal requirements for determining compliance with drinking water standards. In turn, the revisions to the regulation allow the Commonwealth to maintain primary enforcement authority for drinking water requirements under the federal SDWA.</p>

## Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

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Two alternatives pertain to updating the regulation to meet current federal guidance used to certify drinking water laboratories. The first is to revise the regulation so that it conforms to current federal guidance. The second is not to do so. The agency believes the first alternative is the appropriate choice. Updating the regulation to meet current federal guidance for drinking water laboratories ensures that the agency can enforce the most recent requirements for drinking water laboratories and thereby protect public health. Keeping the regulation up to date means that Virginia can maintain primary enforcement authority for drinking water rather than relinquishing it to EPA.

Revising the fee provisions presents two alternatives. DCLS charges fees only to private (commercial or industrial) laboratories at present. The current regulation waives fees for public (government) laboratories. This exemption for public laboratories could be continued or alternatively, these laboratories could be charged a fee to be certified under the program. Approximately one-third of the total laboratories currently certified under the program are public laboratories. The agency believes that charging a fee to all laboratories applying for certification under this regulation would be a more equitable approach. This approach will spread the cost of the program among all the laboratories certified under the program.

## Regulatory flexibility analysis

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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The agency is revising the drinking water laboratory certification regulation to bring the regulation into conformance with current EPA requirements. The regulation has not been revised since 1994 except for the final exempt regulatory action that became effective Feb. 3, 2010 to update the regulation to incorporate current EPA approved test methods. The drinking water laboratories certified by the agency are already meeting current EPA guidance requirements in the Manual and Manual Supplement despite the fact that the current regulation is out of date. The drinking water laboratory certification regulation is being revised because it does not reflect the most current Manual and Manual Supplement guidance. The agency is limited in its ability to enforce current EPA guidance unless the regulation reflects and incorporates the most current Manual and Manual Supplement requirements for certifying drinking water laboratories.

The federal requirements for certifying drinking water laboratories are mandatory under the SDWA. The agency needs to update its regulation to maintain Virginia's primary enforcement authority for drinking water.



When considering alternatives to fees, the fees charged should vary by laboratory depending on the type and amount of testing the laboratory performs.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.*

Commenter	Comment	Agency response
--	The agency received two general comments regarding the need for clean drinking water.	The agency concurs with these comments.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

It is not anticipated that the proposal will have a direct impact on families. There will be a positive indirect impact on families in that the proposal will contain the most up-to-date requirements for the determination of compliance under the federal SDWA.

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please describe the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

The new regulation, 1VAC30-41, is replacing the current regulation, 1VAC30-40. 1VAC30-40 will be repealed when 1VAC30-41 becomes effective. Except to update the list of required federal test methods, 1VAC30-40 has not been revised since 1994 and is out-of-date.

1VAC30-41 includes only one section from 1VAC30-40 in its entirety. Many provisions have been revised or replaced in 1VAC30-41. New sections have been added. 1VAC30-41 includes current federal requirements and current DCLS program practice. Laboratories that are currently certified for drinking

water already meet both the federal requirements and the DCLS procedural requirements set out in the proposed regulation revisions. Because certified laboratories are currently meeting these requirements, there is no change from current program requirements. The laboratories will see no change to their requirements except for fees.

Section number (1VAC30-41-0-41-)	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
<i>Part 1 - General Provisions</i>			
10	States the purpose of the regulation	Replaces section -10 of Chapter 40	Revisions were made to this section to enhance clarity of the language.
20	Defines the laboratories and contaminants covered by the regulation. Provides a link to the VDH-ODW waterworks regulation requirements.	New section	Needed in order for the regulation to be clearly understood.
30	Provides that drinking water laboratories may alternatively obtain certification under 1VAC30-46.	New section	EPA allows drinking water laboratories to obtain certification through meeting an approved TNI environmental laboratory accreditation program. This section references 1VAC30-46, the regulation that DCLS implements as an accreditation body under TNI since Nov. 2009. For commercial laboratories that also perform environmental testing, this option provides an efficient and potentially cost-effective approach to obtain certification.
40	Lists the definitions used in the regulation. See NOTE 1 for the specific changes to definitions.	Replaces section -20 of Chapter 40	Uses definitions specific to the regulation, eliminating those no longer in use, revising others to make them current, and adding others to make the regulation clear. The impact of such changes is positive.
50	Incorporates by reference the current EPA Manual for the Certification of Laboratories Analyzing Drinking Water and the Supplement to the Manual.	Replaces section -80 of Chapter 40	Updates the regulation to meet current EPA guidance. Allows DCLS to enforce current guidance for drinking water laboratories.
55	Lists the federal regulations that are incorporated by reference into the regulation. These federal regulations include approved test methods and related testing requirements.	Moves section -85 of Chapter 40 to section -55 of Chapter 41	This section was added to 1VAC30-40 in an exempt action that became effective February 3, 2010.
<i>Part II - Certification of Laboratories - General Requirements</i>			
60	Describes the categories for which a laboratory may be certified	New section	Provided in order for the regulation to be clearly understood.
70	Lists the information and documents laboratories are required to submit to apply initially for certification. Sets out the procedure DCLS uses to review the application.	Replaces section -90 of Chapter 40	Updates the application requirements and includes the current procedure used by DCLS to review the application.
80	Provides a concise list of the	New section	Provides a list of requirements to

Section number (1VAC3 0-41-	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	requirements laboratories must meet to become certified, providing cross-references to the specific sections where the detailed requirements are set out.		ensure that laboratories understand what is required for certification.
90	Describes the conditions that laboratories must meet to obtain reciprocal certification in Virginia and the material these applicant labs must submit to be certified.	Replaces section -70 of Chapter 40	Updates the requirements for laboratories applying for reciprocal certification.
100	Sets out conditions for renewal of certification. Provides that certification will be renewed if lab maintains required standards for certification and pays annual fee.	Replaces section -190 of Chapter 40	Updates the provisions for renewal of certification to reflect the requirements of the Manual and current agency procedure.
110	Provides a procedure to follow if a laboratory wants to add or delete a method or contaminant to its certification. Lists the information the agency needs to evaluate the addition of a method or contaminant to a laboratory's certification.	Replaces section -180 of Chapter 40	Revises and updates the current provision to reflect current procedure to add or delete a method or contaminant.
120	Requires labs to meet the quality assurance plan provisions of the EPA Manual and Supplement.	Replaces section -50 of Chapter 40	Replaces the current provisions with the EPA Manual requirements. The current provisions are out-of-date.
130	Requires labs to meet the requirements of the EPA Manual and Supplement on proficiency testing as well as the specific procedural requirements set out in this section. The section requires an annual proficiency test for each contaminant and method for which the lab wants to become certified. The procedures that DCLS will use to administer the proficiency testing requirements are included.	New section	Adds a new section on the proficiency testing requirements of the program. These requirements are currently in program guidance but not in the regulation.
140	Requires labs to meet the laboratory ethics and fraud detection and deterrence requirements in the EPA Manual Supplement. EPA, in the Supplement, encourages laboratories to have an ethics policy and to implement a fraud detection and deterrence policy or program.	New section	This EPA requirement is intended to minimize fraud and maximize laboratory integrity and data quality.
150	Sets out the requirements for on-site assessment of laboratories. Describes when on-site assessments occur and the procedure DCLS uses before, during, and after the assessment as well as the requirements laboratories must follow.	Replaces section -100 of Chapter 40	Replaces out-of-date provisions with a specific outline of the on-site assessment procedure. The intent is to communicate clearly the on-site assessment procedure for the laboratories.
160	Describes each type of certification: (a)	Replaces	Adds interim certification to the current

Section number (1VAC3 0-41-	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	certified, (b) interim certification, (c) provisionally certified, and (d) not certified.	section -110 of Chapter 40	provision's list of certification types. The time limit for provisionally certified laboratories to correct their deficiencies is deleted from this section and is moved to more appropriate locations.
170	Provides that the term of certification is one year.	New section	This new section is provided so that the regulation may be clearly understood.
180	Lists the requirements a laboratory must continue to meet in order to maintain its certification status. Cross-references the detailed requirements.	Replaces section -130 of Chapter 40	The intent is to make the requirements for maintaining certification clear to the laboratories.
190	Lists the reporting requirements that laboratories must meet to maintain certification.	Replaces sections -30 and -40 of Chapter 40	Deletes out-of-date references in the current provisions, listing the correct references to the VDH-ODW reporting requirements.
200	Sets out specific requirements pertaining to major changes in personnel or equipment or a change of laboratory location from the Manual. Specifies the reporting requirements for these changes. Defines a major change in personnel. Specifies what information laboratories must provide to DCLS when adding new equipment. Provides that DCLS may perform an on-site assessment of a new laboratory location. The section requires laboratories to submit a schedule to DCLS showing how the major change will be incorporated into the laboratory's operation as to not affect the quality of the data produced.	New section	Adds a section to let laboratories know what they must do when major changes in personnel or equipment occur. Specifying what is meant by a major change in personnel is intended to help laboratories understand when they must report this change to DCLS. The intent is to be clear on what DCLS requires of the laboratories under these conditions.
210	Lists the conditions under which DCLS would downgrade a laboratory to provisionally certified status.	Replaces section -140 of Chapter 40	Revises the current list of conditions so that it conforms to the list in the current edition of the EPA Manual.
220	Sets out the procedure DCLS will use to downgrade a lab to provisionally certified status. Provides the actions a laboratory must take in response to the DCLS notice of its intent to downgrade.	Replaces section -160 of Chapter 40	Provides explicit provisions on the procedure to downgrade a laboratory to provisionally certified status. The provisions are intended to set out the process DCLS will use to notify the laboratory of its intention to downgrade its certification status and the laboratory's responsibilities in responding to the notice and subsequent actions.
230	Lists the conditions under which DCLS may revoke a laboratory's certification.	Replaces section -150 of Chapter 40	Revises the current list of conditions so that it conforms to the list in the current edition of the EPA Manual.
240	Sets out the procedure DCLS will use to revoke a laboratory's certification. Provides the actions a laboratory must take in response to the DCLS notice of	Replaces section -160 of Chapter 40	Provides explicit provisions on the procedure to revoke a laboratory's certification. The provisions are intended to set out the process DCLS

Section number (1VAC3 0-41-	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	its intent to revoke certification.		will use to notify the laboratory of its intention to revoke certification and the laboratory's responsibilities in responding to the notice.
250	Sets out the procedure a laboratory must use to appeal a DCLS notification of intent to revoke a laboratory's certification status.	Replaces section -120 of Chapter 40	Provides explicit procedures that a laboratory should use to appeal a DCLS notice of intent to revoke laboratory certification.
260	Sets out the process that a laboratory must use to request reinstatement of certification. Describes how DCLS will handle the request.	Replaces section -170 of Chapter 40	Rewrites the current provisions and adds that the laboratory requesting reinstatement would have to pay a fee if an on-site assessment is necessary.
270	Sets out the provisions concerning fees. The fees listed are to be paid initially and annually. Additional fees are charged for certain actions. The calculation of these additional fees is described.	Replaces section -60 of Chapter 40	This revised section on fees specifies when fees are due and the specific fees due. The section includes fees for the first year of the program after the regulation becomes effective and a formula to increase fees annually using the CPI-Urban, a common inflation indicator. Additional fees are charged under specified circumstances.
<i>Part III - Chemistry</i>			
300	Requires chemistry laboratories to meet the personnel requirements of Chapter III, Section 10 and Chapter IV, Section 1 of the EPA Manual.	Replaces section -200 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement.
310	Requires chemistry laboratories to meet the laboratory facility requirements of Chapter IV, Section 2 of the EPA Manual.	Replaces section -210 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement.
320	Requires chemistry laboratories to meet the laboratory equipment and instrumentation requirements of Chapter IV, Section 3 of the EPA Manual and the related requirements set out in federally-approved test methods.	Replaces section -220 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement as well as federal regulations.
330	Requires chemistry laboratories to meet the general laboratory practices requirements of Chapter IV, Section 4 of the EPA Manual and the related requirements set out in federally-approved test methods.	Replaces section -230 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement as well as federal regulations.
340	Requires chemistry laboratories to meet the analytical methodology requirements set out in federally-approved test methods and the requirements of Chapter IV, Subsection 5.1 of the EPA Manual. Minimum performance requirements are also stated.	Replaces section -240 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement as well as federal regulations.
350	Requires chemistry laboratories to meet the sample collection, handling, and	Replaces section -250 of	Revises the regulation to require laboratories to meet the current EPA

Section number (1VAC30-41-0-41-	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	preservation requirements set out in federally-approved test methods and the requirements of Chapter IV, Section 6 of the EPA Manual.	Chapter 40	Manual and Manual Supplement as well as federal regulations.
360	Requires chemistry laboratories to meet the quality assurance requirements set out in federally-approved test methods and the requirements of Chapter III, Section 11 and Chapter IV, Section 7 of the EPA Manual.	Replaces section -260 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement as well as federal regulations.
370	Requires chemistry laboratories to meet the records and data reporting requirements set out in federally-approved test methods and the requirements of Chapter IV, Section 8 of the EPA Manual.	Replaces section -270 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement as well as federal regulations.
380	Requires chemistry laboratories to meet the action response to laboratory results requirements of Chapter IV, Section 9 of the EPA Manual and the reporting requirements of 1VAC30-41-190.	Replaces section -280 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement as well as VDH-ODW reporting requirements.
<i>Part IV - Microbiology</i>			
400	Requires microbiology laboratories to meet the personnel requirements of Chapter III, Section 10 and Chapter V, Section 1 of the EPA Manual.	Replaces section -290 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement.
410	Requires microbiology laboratories to meet the laboratory facility requirements of Chapter V, Section 2 of the EPA Manual. Additional clarification is provided.	Replaces section -300 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement.
420	Requires microbiology laboratories to meet the laboratory equipment and supplies requirements of Chapter V, Section 3 of the EPA Manual and the related requirements set out in federally-approved test methods.	Replaces section -310 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement as well as federal regulations.
430	Requires microbiology laboratories to meet the general laboratory practices requirements of Chapter V, Section 4 of the EPA Manual and the related requirements set out in federally-approved test methods.	Replaces section -320 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement as well as federal regulations.
440	Requires microbiology laboratories to meet the analytical methodology requirements set out in federally-approved test methods and the requirements of Chapter V, Section 5 of the EPA Manual. Minimum performance requirements are also stated.	Replaces section -330 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement as well as federal regulations.
450	Requires microbiology laboratories to	Replaces	Revises the regulation to require

Section number (1VAC30-41-0-41-	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	meet the sample collection, handling, and preservation requirements set out in federally-approved test methods and the requirements of Chapter V, Section 6 of the EPA Manual. Additional clarification is provided.	section -340 of Chapter 40	laboratories to meet the current EPA Manual and Manual Supplement as well as federal regulations.
460	Requires microbiology laboratories to meet the quality assurance requirements set out in federally-approved test methods and the requirements of Chapter III, Section 11 and Chapter V, Section 7 of the EPA Manual and the Manual Supplement to Chapter III, Section 2.	New section	Adds quality assurance requirements for microbiology laboratories in a separate section. The current 1VAC30-40 includes some quality control requirements in related microbiology provisions. These are out-of-date. The intent is to require the laboratories to meet the current EPA Manual and Manual Supplement as well as federal regulations.
470	Requires microbiology laboratories to meet the records and data reporting requirements set out in federally-approved test methods and the requirements of Chapter V, Section 8 of the EPA Manual.	Replaces section -350 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement as well as federal regulations.
480	Requires microbiology laboratories to meet the action response to laboratory results requirements of Chapter V, Section 9 of the EPA Manual and the reporting requirements of 1VAC30-41-190.	Replaces section -360 of Chapter 40	Replaces current section -360 with the requirements for action response to laboratory results for microbiology in the EPA Manual and the VDH-ODW reporting requirements. The intent is to require the laboratories to meet the current EPA Manual and Manual Supplement as well as VDH-ODW reporting requirements.
<i>Part V - Radiochemistry</i>			
500	Requires radiochemistry laboratories to meet the sampling and analytical methodology requirements set out in federally-approved test methods. Requires radiochemistry laboratories to meet the specific requirements in the EPA Manual for the following: personnel; laboratory facilities; laboratory equipment and instrumentation; general laboratory practices; analytical methods; sample collection, handling, and preservation; quality assurance; records and data reporting; and action response to laboratory results.	Replaces section -370 of Chapter 40	Revises the regulation to require laboratories to meet the current EPA Manual and Manual Supplement as well as federal regulations.

NOTE 1: The following definitions were deleted: certifying team, CFR, compliance sample, EMSL-LV, minimum requirements, NPDWR, performance evaluation sample, primary enforcement responsibility (primacy), TTHM, and Virginia laboratory officer. The following definitions were revised: USEPA, DGS-DCLS, and quality assurance (QA) plan. The following definitions were added: certification officer,

contaminant, corrective action, drinking water laboratory, findings, laboratory director, Manual, Manual supplement, owner, persistent, private laboratory, proficiency test (PT) sample, public laboratory, and quality control.