

Office of Regulatory Management

Economic Review Form

Agency name	Department of General Services, Division of Consolidated Laboratory Services
Virginia Administrative Code (VAC) Chapter citation(s)	1VAC30-41-55
VAC Chapter title(s)	Regulation for the Certification of Laboratories Analyzing Drinking Water (1VAC30-41)
Action title	Chapter 41 Update Code of Federal Regulations Incorporation by Reference
Date this document prepared	April 22, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Final Exempt

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

1VAC30-41-55 incorporates by reference the federal sampling, analytical methodology, and laboratory certification requirements of 40 CFR Part 141 and 40 CFR Part 143 into 1VAC30-41. This exempt action updates this incorporation by reference of the Code of Federal Regulation (CFR) from July 1, 2018 through July 1, 2023. During this period the U.S. Environmental Protection Agency (EPA) published three expedited alternative analytical test method lists. EPA recently approved a fourth list of additional alternative test methods; the list was published in the Federal Register on January 30, 2024. This exempt action also incorporates by reference these additional alternative test methods.

EPA’s publication of alternative analytical test methods does not impose new requirements but simply makes alternative test methods available as options for monitoring under the federal Safe Drinking Water Act (SDWA).

EPA states in its most recent list of approved alternative analytical methods that its action

[M]akes alternative testing methods available for particular drinking water contaminants beyond the testing methods currently established in the regulations. EPA is providing public water systems, required to test water samples, with a choice of using either a test procedure already established in the existing regulations or an alternative testing method in this action or in prior expedited approval actions. 89 FR 5744 (1/30/24)

EPA further explains the basis for approving alternative testing methods under the SDWA:

When EPA determines that an alternative analytical method is “equally effective” (i.e. as effective as a method that has already been promulgated in the regulations), SDWA allows EPA to approve the use of the alternative testing method through publication in the *Federal Register* (see section 1401(1) of SDWA).

EPA further explains that this expedited approval of alternative methods

does not add regulatory language, but does, for informational purposes, update an appendix to the regulations at 40 CFR Part 141 that lists all methods approved under section 1401(1) of SDWA. Accordingly, while this action is not a rule, it is updating CFR text and therefore is being published in the “Final Rules” section of this *Federal Register*.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p><u>Direct Costs:</u> There are no direct costs of incorporating by reference additional alternative testing methods as options for monitoring under SDWA. These alternative methods are not required rather they are additional testing method options for laboratories. The laboratories may choose to use the alternatives but are not required to do so. Use of alternative testing methods should be approximately equivalent to a laboratory’s current cost of using a required test method.</p> <p><u>Indirect Costs:</u> Any indirect costs incurred by laboratories are optional costs. The laboratory is not required to use these alternative methods. If a laboratory chooses to use an alternative method the indirect cost would be the cost of purchasing the test method from the publisher of the method and the cost of training lab personnel to perform the method. The costs associated with the test method the laboratory previously used would be eliminated thus offsetting the costs of the alternative method.</p>
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	<p>The specific costs of choosing an alternative method would depend on the method chosen. There are many contaminants to be sampled and tested for in drinking water and hundreds of methods available to do so.</p> <p><u>Indirect Benefits:</u> See (4) below.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See (1) above	(b) See (1) above
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)	<p><u>Benefits</u></p> <p>The direct benefit of incorporating by reference EPA’s approved additional alternative test methods is to meet federal requirements for protecting health and welfare. There is an additional benefit in maintaining state control over drinking water primacy by including all alternatives approved by EPA.</p> <p>Incorporating by reference EPA’s approved alternative test methods gives laboratories added flexibility in choosing a test method.</p> <p>The use of approved alternative test methods may provide --</p> <ul style="list-style-type: none"> • Timely access to new measurement techniques and greater flexibility in the selection of analytical methods, thereby reducing monitoring costs while maintaining public health protection • The ability to use updated technology or newer instrumental capabilities • The ability to use methods where editorial corrections such as correction of errors and procedural clarifications have been made • More in-depth calibration details and quality control criteria capable of yielding improved consistency in generating and evaluating analytical results 	
(5) Information Sources	<p>Updates to Appendix A to Subpart C of Part 141, Title 40 as follows: 83 FR 51644, Oct. 12, 2018; 86 FR 28284, May 26, 2021; 87 FR 50579, Aug. 17, 2022; 89 FR 5780, Jan. 30, 2024</p>	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p><u>Direct Costs:</u> See Table 1a above.</p> <p><u>Indirect Costs:</u></p>
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	<u>Direct Benefits:</u> See Table 1a above.	
	<u>Indirect Benefits:</u>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources		

Table 1c: Costs and Benefits under Alternative Approach(es) – None

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Indirect Costs: Direct Benefits: Indirect Benefits:	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources		

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	<p><u>Direct Costs</u>: See Table 1a above.</p> <p><u>Indirect Costs</u>: See Table 1a above.</p> <p><u>Direct Benefits</u>: See Table 1a above.</p> <p><u>Indirect Benefits</u>: See Table 1a above.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Other Costs & Benefits (Non-Monetized)		
(4) Assistance		
(5) Information Sources		

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	<p><u>Direct Costs</u>: None</p> <p><u>Indirect Costs</u>: Minimal. Use of alternative testing methods should not affect the fees utilities charge for clean drinking water, if any.</p> <p><u>Direct Benefits</u>: The use of an alternative test method to determine compliance with the drinking water standards may decrease the cost to the laboratory and increase the accuracy of the determining the levels of the contaminant in the drinking water sample. This can only lead to greater health benefits for families.</p>
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	<u>Indirect Benefits:</u> Use of alternative test methods probably will result in more precise measures of contaminants in drinking water and ultimately to an increase in public health, assuming any violation of a standard is corrected.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Other Costs & Benefits (Non-Monetized)		
(4) Information Sources		

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<u>Direct Costs:</u> See Table 1a above. <u>Indirect Costs:</u> See Table 1a above. <u>Direct Benefits:</u> See Table 1a above. <u>Indirect Benefits:</u> See Table 1a above.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Other Costs & Benefits (Non-Monetized)		
(4) Alternatives		

(5) Information Sources	
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Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
1VAC30-41-55	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
Grand Total of Changes in Requirements:					(M/A):0 (D/A):0 (M/R):0 (D/R):0

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
1VAC30-41-55	Updates regulation to include federally approved additional alternative test methods for use by laboratories (regulated community)			

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
1VAC30-41-55	Updates regulation to include federally approved additional alternative test methods for use by laboratories (regulated community)	Provides flexibility for regulated community by adding alternative test methods to meet monitoring requirements

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Word Count	New Word Count	Net Change in Word Count

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).