



Economic Impact Analysis Virginia Department of Planning and Budget

1 VAC 30-41 – Certification of Laboratories Analyzing Drinking Water
Department of General Services
April 10, 2011

Summary of the Proposed Amendments to Regulation

The Division of Consolidated Laboratory Services (DCLS) proposes to repeal its current regulations that govern certification of laboratories that analyze drinking water and, at the same time, promulgate a new regulatory chapter that will replace and update the regulations being repealed. Changes between the current and proposed regulations will:

1. remove references to outdated versions of the Environmental Protection Agency (EPA) manual that sets rules for testing,
2. change the regulatory language on fees to remove the fee waiver for public labs and clarify that fees will be changed once a year if necessary,
3. allow drinking water laboratories an alternate path to certification by meeting the requirements of 1 VAC 30-46 (Accreditation of Commercial Environmental Laboratories) and
4. add new provisions that clarify already existing requirements for laboratories.

Result of Analysis

Benefits likely outweigh costs for most proposed regulatory changes. For one proposed change, there is insufficient information to ascertain whether benefits outweigh costs.

Estimated Economic Impact

Current regulations establish rules for laboratories, both public and private, that test drinking water. Currently, private labs pay fees but public labs have a waiver for fees.¹ Most of the changes that will be reflected in the proposed new regulatory chapter will remove obsolete language or move guidance language into regulation. These changes will benefit affected entities, as they will tend to clarify what the rules are. Affected entities are unlikely to incur any additional costs on account of these clarifying changes.

Current regulations inform affected entities of how fees are set and waive fees for local, state and federal public labs. Below is a comparison table for 2009/2010 and 2011 certification fees (fees have not been set for 2012):

FEE TYPE	2009/2010 FEES	2011 FEES	% INCREASE
Microbiology	\$250	\$500	100%
Inorganic Chemistry	\$280	\$800	186%
Organic Chemistry	\$280	\$900	221%
Radiochemistry	\$250	\$950	280%
Asbestos	N/A	\$850	N/A

DCLS reports that the current fee structure only covers “a minimal portion” of the actual cost of administering this program and that they do not have money in program’s budget to support the waivers that public labs currently get. As a consequence DCLS proposes to eliminate the waiver language and require that public labs pay the same fees as private ones. This change will benefit DCLS and the public as it will allow the lab certification program to be fully funded. Public labs will incur costs equal to whatever fee level equivalent private labs incur. Some public labs may find these fees prohibitive and may choose not to be certified (and therefore will not test drinking water). There is insufficient information to decide whether the benefits will outweigh the costs for this change.

¹ Fees are set outside of these regulations as mandated by the Code of Virginia. Fees can be changed once a year and are set at the amount necessary to pay the costs of the certification program.

DCLS proposes one other substantive change in the new regulations that will allow labs an alternate path to certification. Under this proposal, labs can be certified by meeting the requirements of 1 VAC 30-46 (Accreditation of Commercial Environmental Laboratories). Labs will likely only use this alternate path if the benefits of doing so outweigh the costs.

Businesses and Entities Affected

DCLS reports that 146 labs are currently certified through this program. 52 of these are public labs.

Localities Particularly Affected

Localities with certified labs will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

The removal of fee waivers for public labs in this regulatory action may decrease the number of public labs that are able to afford certification.

Effects on the Use and Value of Private Property

This regulatory action is unlikely to have an appreciable effect on the use or value of private property.

Small Businesses: Costs and Other Effects

DCLS estimates that approximately 60% of the 94 private labs that they certify would qualify as small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are likely no alternate methods of regulation that would both allow DCLS to ensure compliance with federal law and reduce costs.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.