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Exempt Action: Final Regulation Agency Background Document

Agency name	Department of General Services, Division of Consolidated Laboratory Services
Virginia Administrative Code (VAC) Chapter citation(s)	1 VAC30-41
VAC Chapter title(s)	Regulation for the Certification of Laboratories Analyzing Drinking Water
Action title	Chapter 41 Update Code of Federal Regulations Incorporation by Reference
Final agency action date	May 21, 2024
Date this document prepared	April 10, 2024

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

1VAC30-41 establishes the requirements for certification of drinking water laboratories. 1VAC30-41-55 incorporates by reference the sampling, analytical methodology, and laboratory certification requirements of 40 CFR Part 141 and 40 CFR Part 143 into 1VAC30-41. 1VAC30-41-55 currently includes these Code of Federal Regulation (CFR) requirements through July 1, 2018.

This exempt action updates this incorporation by reference of the CFR through July 1, 2023. During this period the U.S. Environmental Protection Agency (EPA) published three expedited alternative analytical test method lists. Alternative analytical test methods do not impose new requirements. EPA approves these test methods as equivalent to methods that EPA already requires laboratories to use. Recently

EPA approved additional alternative test methods. These were published in the Federal Register on January 30, 2024, and corrected in the Federal Register on February 5, 2024. This exempt action also incorporates by reference these additional alternative test methods.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The U.S. Environmental Protection Agency requires certified drinking water laboratories to use federally approved analytical test methods. These analytical test methods are promulgated in 40 CFR 141 and 143 in the Federal Register and then compiled in the Code of Federal Regulations each July 1st. This action updates the incorporation by reference of these federal requirements. Section 2.2-4006 A 4(c) of the Administrative Process Act provides that the Department may adopt these regulatory amendments as a final exempt action because the changes are necessary to conform to changes in the federal regulations. The Department of General Services, Division of Consolidated Laboratory Services has the authority to carry out certification of drinking water laboratories in Virginia under §§ 2.2-1102 and 2.2-1105 of the Code of Virginia.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Director of the Department of General Services approved the revised regulation on May 21, 2024. The title of the regulation is **Regulation for the Certification of Laboratories Analyzing Drinking Water**.