

**Wisconsin Department of Natural Resources  
Natural Resources Board Agenda Item**

**SUBJECT:** FY 2016 Laboratory Certification and Registration Program Fee Adjustment

**FOR:** February 2015 Board meeting

**TO BE PRESENTED BY:** Steve Geis - Chief, Environmental Science Services Section

**SUMMARY:**

The Laboratory Certification and Registration (LabCert) Program ensures the quality and defensibility of environmental laboratory data. Laboratories submitting data to the Department must be certified or registered under ch. NR 149 Wis. Adm. Code, to perform the tests to generate such data. Section 299.11 (9), Wis. Stats., authorizes the Department to promulgate a graduated schedule of fees to recover the costs of administering the LabCert Program. Fees are determined using the formula in s. NR 149.21 (1) (c). The formula determines the program's fee schedule for each fiscal year and is tied to the number of laboratories participating in the program, and the program's expenditure authority determined under s. 20.370 (3) (fj), Wis. Stats. Laboratories participating in the program must pay renewal fees in full to maintain their certifications and registrations.

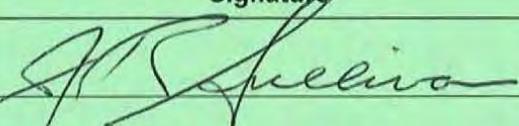
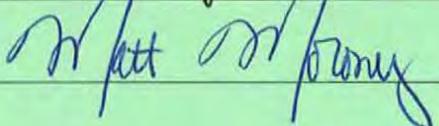
Under the guidance of the Certification Standards Review Council, a 9-member advisory board, LabCert has operated a lean and efficient program, operating well under its authorized spending authority while maintaining a high level of service to its customers (see background memo, graph on page 2) . Section NR 149. 21(1) (b), Wis. Adm. Code, requires that the annual fee adjustments be reviewed by the Certification Standards Review Council and approved by the Natural Resources Board. The Department anticipates collecting sufficient fee revenue to cover projected operating expenses. This represents a 0.4% increase in fee revenue over FY 2015. The increase in revenue is designed to gradually build a budget to support adequate program staffing.

This fee increase means that an average municipal lab will pay \$34 more for accreditation. The average commercial lab will pay an additional \$150. The Certification Standards Review Council, representing a cross section of environmental laboratories, supports the proposed budget plan for FY16.

**RECOMMENDATION:** The Department recommends that the Natural Resources Board approve the Laboratory Certification and Registration program's FY 2016 fee adjustment proposal.

**LIST OF ATTACHED MATERIALS (check all that are applicable):**

- Background memo
- Fiscal estimate
- Type name of attachment or type N/A if not applicable
- Type name of attachment or type N/A if not applicable

Approved by	Signature	Date
Jack Sullivan, Bureau Director		1/16/15
Mark Aquino, Administrator		1/16/15
Cathy Stepp, Secretary		2/3/15

cc: Board Liaison - AD/8

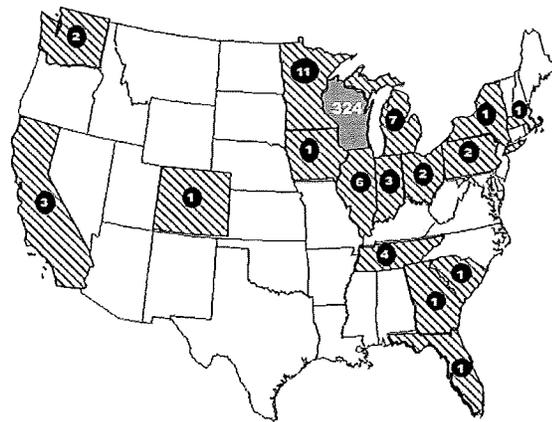
**CORRESPONDENCE/MEMORANDUM**

DATE: January 16, 2015  
 TO: Natural Resources Board Members  
 FROM: Cathy Stepp, Secretary  
 SUBJECT: FY 2016 Laboratory Certification and Registration Fee Adjustment

**Laboratory Certification and Registration Program Overview**

The Laboratory Certification and Registration Program is managed by the Environmental Science Services Section in the Science Services Bureau, which is part of the Office of Business Support and Sustainability. The program ensures the quality and defensibility of the environmental laboratory data. Laboratories submitting data to the Department's covered programs must be certified or registered under ch. NR 149 to perform the tests generating such data. These data are integral to many of the Department's environmental quality rules and regulatory programs.

Certified laboratories perform testing services for hire. Registered laboratories perform testing solely on behalf of their own facility or municipality, or a subsidiary or corporation under common ownership or control.



*The Lab Certification and Registration program accredits 371 labs that perform testing of Wisconsin samples, including 47 labs in 16 states other than Wisconsin.*

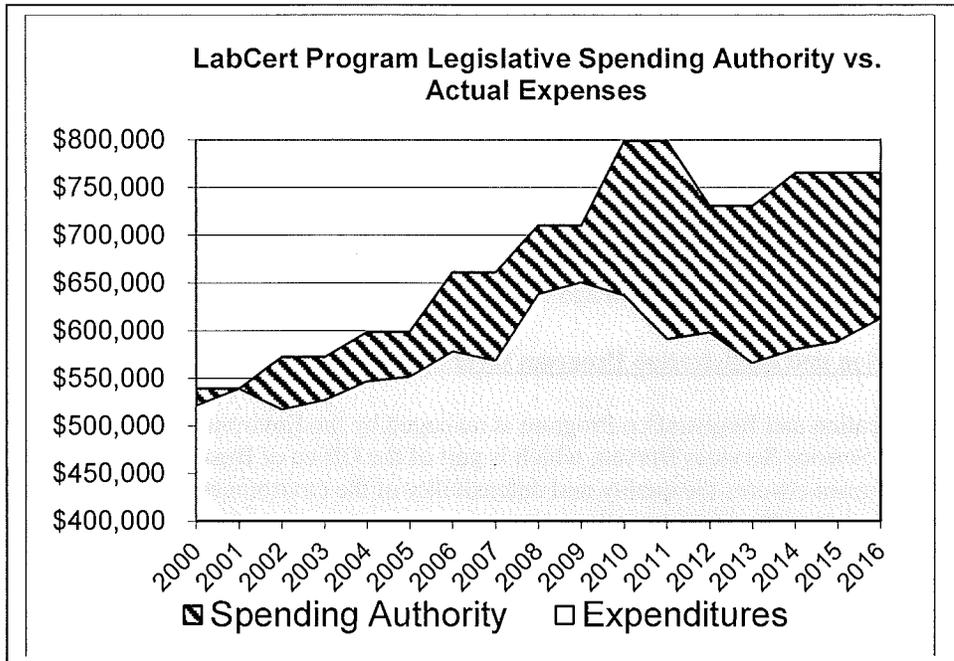
At the time this proposal was drafted, 371 laboratories located in Wisconsin and in 16 other states participate in the program. The Department currently certifies 47 out-of-state laboratories.

**Proposed FY 2016 Revenues**

*Statutory and Administrative Code Authority*

Statute s. 299.11(9) established statutorily authorized spending for the Laboratory Certification Program. Chapter NR 149.21 (1) (c) 1.c, establishes a fee system to collect revenue equaling expenses to administer the program. The Department has and continues to operate this program well under the authorized spending authority (see figure below) while maintaining a high level of service to its customers. This proposed budget is more than \$150,000 below the current spending authority.





Program Fee Formula

The fee formula established in s. NR 149.21 (1) (c) uses a relative value system to distribute equitably, among all participating laboratories, the cost of administering the program. The system defines a relative value unit (RVU) as the base for costs. The relative value of each fee item is specified in ch. NR 149.21, Wis. Adm. Code, Tables 1, 2, and 3.

RVU assignments are based on the complexity of an item or the associated effort in managing the item. Chapter NR 149 assigns RVUs to the matrices or types of samples analyzed by laboratories (aqueous, solid or drinking water), the analytical technology laboratories use to analyze aqueous and solid samples, and the class of compounds laboratories analyze in drinking water.

The cost per RVU is determined by dividing the program’s budgeted operating expenses, excluding out-of-state evaluation travel expenses, by the number of available RVUs. The cost of each item is then determined by multiplying the number of RVUs assigned to an item by the cost per RVU.

RVU Projections

For FY 2016, the Department projects 371 laboratories will be accredited which will constitute a total of 9,078 RVUs. This represents a decrease of 240 (2.6%) RVUs. The FY 2016 cost per RVU is calculated by dividing the required fee revenue, (\$594,121) by the 9,078 RVUs available, which yields a cost of \$65.45 per RVU, rounded, for billing ease, to the nearest half dollar to \$65.50. Using the cost per RVU, a fee schedule is developed according to the RVU designations specified in s. NR 149.21. This represents an increase of \$2.00 (3.1%) from the cost of an RVU in FY 2015.

**Projected FY 2016 Expenditures**

*Salary, Fringe and Position Authority*

The FY 2016 salary and fringe expenses total \$475,192 (77.6%) of the program’s budget. The FY 2016 projected cost for combined salary and fringe is \$14,433 (2.9%) less than the corresponding costs in the FY 2015 budget. In lieu of filling an existing staff vacancy, which would result in a significantly greater fee increase, the program is budgeting for the increased utilization of contractors for FY 2016.

The program has position authority for 6.39 full-time equivalent (FTE) positions for FY 2016, however only 5.39 FTE positions will be funded. The program will continue to utilize a contract auditor in addition to four FTE auditors to maintain compliance with necessary timelines for lab evaluations, reports and closures. Recently promulgated changes to NR 812, Wis. Admin. Code, which requires additional testing for private drinking water, have generated a number of applications for accreditation from new laboratories. An additional \$20,000 has been budgeted to procure supplementary contractor services to help meet on-site evaluation obligations. It is anticipated that the program will continue to use a combination of permanent and contract employees due to the unstable nature of the laboratory business sector at this time.

Current position assignment is as follows: one FTE position is assigned to a Program Chemist that performs the program’s administrative tasks and develops and presents outreach materials for laboratories and data users. The program’s fee revenue also funds 39% of the Environmental Science Services Section Chief position. The remaining four FTE perform compliance evaluations of 371 laboratories (audited every three years) directly accredited with the program and provide technical and regulatory support to Department staff and the regulated laboratory community.

*Supplies and Services and Information and Technology (IT)*

Supplies and services expenditures account for \$121,828 (19.9%) of the program’s budget. This amount is \$16,901 (16.1%) more than that budgeted for the same functions in FY 2015. The increase stems from the budgeted increase for contractor services (\$20,000).

For FY 2016, the program is budgeting \$15,100 for information technology related expenses, which include software licenses and individual PC maintenance and network charges. IT costs represent only 2.6% of the expense budget.

**FY 2016 Budget**

The program is submitting a budget of \$612,121 for FY 2016. This figure is \$2,468 (0.4%) more than the program’s FY 2015 budget. The increase of \$20,000 for contractor services has been largely offset by reductions in other areas as the program continues to operate more efficiently.

**Figure 1**  
Distribution of FY 2016 Budget Expenditures

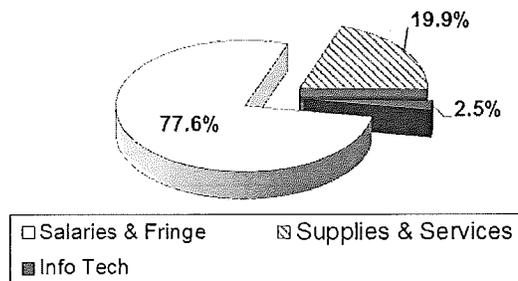


Table 1: FY 2016 budget detail

## Expenses

BUDGET ITEM	FY 2016 BUDGET
<b>Salary and Fringe</b>	
FTE Salary	\$ 321,902
FTE Fringe	\$ 153,290
<b>Subtotal: Salary and Fringe</b>	<b>\$ 475,192</b>
<b>Supplies and Services</b>	
Contract Auditor	\$ 64,000
Office Supplies, Services, and Equipment	\$ 500
In-State Travel (Laboratory Audits)	\$ 12,000
Out-of-State Travel (Laboratory Audits)	\$ 18,000
Outreach	\$ 250
Staff Training	\$ 250
Postage	\$ 600
Printing / Copying Services	\$ 500
Telecommunications	\$ 4,000
Indirect Costs (allocables)	\$ 21,728
<b>Subtotal: Supplies and Services</b>	<b>\$ 121,828</b>
<b>Information and Technology</b>	
Computers and Software	\$ 2,600
BTS Support Charges	\$ 12,500
<b>Subtotal: Information and Technology</b>	<b>\$ 15,100</b>
<b>TOTAL FY 2016 BUDGET EXPENSES</b>	<b>\$ 612,121</b>

## Revenues

<b>LabCert Fee Revenue</b>	<b>\$ 594,609</b>
LabCert base fee revenue: RVU=2535	\$ 166,043
LabCert matrix fee revenue: RVU=2275	\$ 149,013
LabCert technology fee revenue: RVU=4113	\$ 269,402
LabCert application fee revenue: RVU= 155	\$ 10,153
<b>Out-of-State Travel Re-imburements</b>	<b>\$ 18,000</b>
<b>TOTAL FY 2016 BUDGET REVENUES</b>	<b>\$ 612,609</b>
<b>PROJECTED SURPLUS / (SHORTFALL)</b>	<b>\$ 488</b>

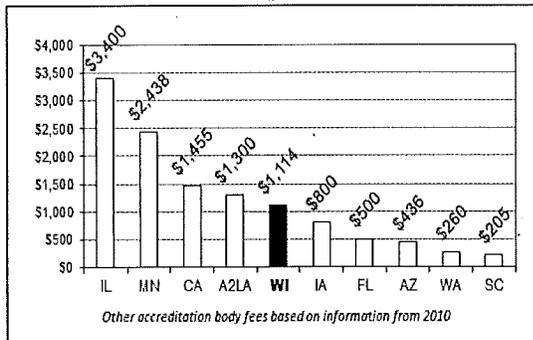
## Fee Basis (Cost/RVU)

<b>REQUIRED FEE REVENUE</b>	<b>\$ 594,121</b>
TOTAL FY 2016 BUDGET EXPENSES	\$ 612,121
Out-of-State Travel Re-imburements	\$ (18,000)
<b>TOTAL BUDGETED RVUS</b>	<b>9078</b>
projected lab RVU	8923
projected application RVU	155
<b>COST / RVU (Required Revenue/ Total RVU)</b>	<b>\$ 65.50</b>
comparison to FY 2015 (\$63.50/RVU)	<b>3.1%</b>
actual cost per RVU	\$ 65.45

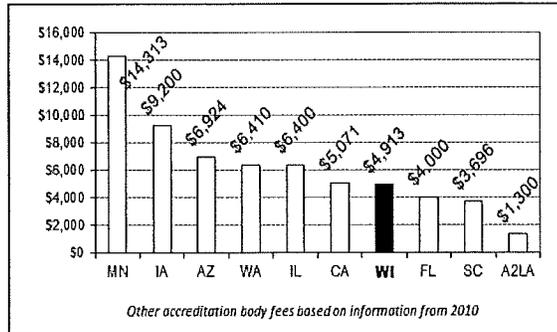
**Fee Impact on Laboratories and Comparison to Other Accreditation Programs**

The proposed 3.1% RVU increase means that an average municipal wastewater treatment plant (WWTP) lab will pay \$34.00 more for accreditation. The average commercial lab will pay an additional \$150.00. The proposed Wisconsin laboratory certification and registration fees will continue to remain below those of many other states with comparable programs, as illustrated by Figures 2 and 3 below. Note that A2LA is a not-for-profit third party accreditor of environmental laboratories; A2LA fees presented do not include additional costs assessed by A2LA for on-site evaluations. Laboratories located in Wisconsin are not assessed an on-site evaluation fee by our program.

**Comparison of Various Annual State Laboratory Certification Fees**



**Figure 2:** Fees for a typical municipal WWTP lab



**Figure 3:** Fees for a typical commercial lab

**Alternative Budget Scenarios Considered**

Table 2 summarizes alternative premises considered for budget development and fee collection and the effect they would have on laboratory fees and the program’s balance sheet.

**Table 2  
Alternative Budget and Fee Scenarios**

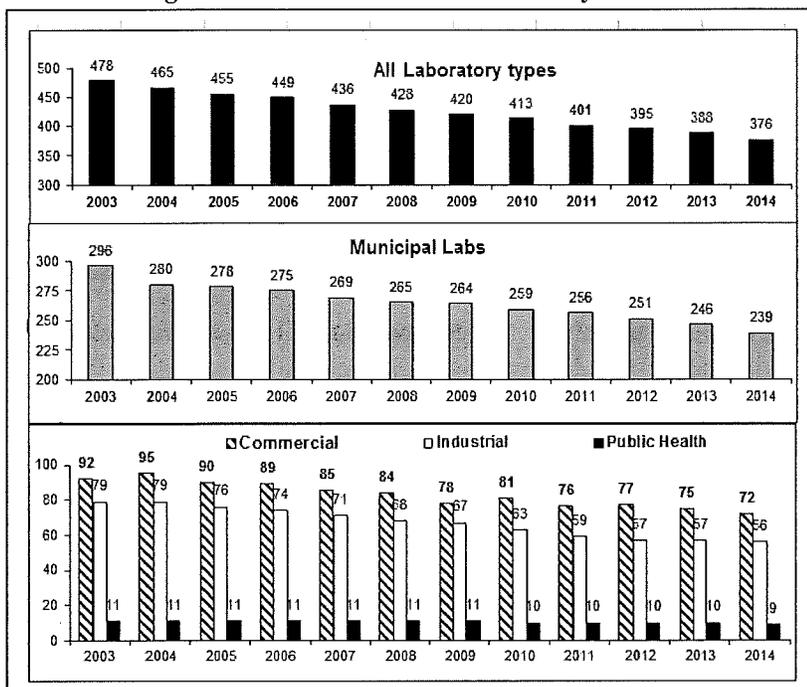
Variable	FY2016 (proposed)	Option 1	Full ch. 20 Authority <sup>1</sup>
<i>Additional \$20K for Contractor</i>	Yes	NO	Yes
<b>Total Expenses</b>	\$ 612,121	\$ 592,121	\$ 612,121
<b>Total Revenues</b>	\$ 612,609	\$ 589,914	\$ 765,200
<b>Projected Surplus / (Shortfall)</b>	\$ 488	\$ (2,207)	\$ 153,079
<b>Cost/RVU</b>	\$ 65.50	\$ 63.00	\$ 82.50
Avg Municipal WWTP fee (FY15: \$1,080)	\$ 1,114	\$ 1,071	\$ 1,403
Avg Commercial Lab fee (FY15: \$4,425)	\$ 4,913	\$ 4,725	\$ 6,188
<b>Comparison to FY 2015 fees</b>	<b>3.1%</b>	<b>-0.8%</b>	<b>29.9%</b>

<sup>1</sup> Establishing fees and collecting revenue as close to the Spending Authority (~ \$765,200) as possible without exceeding it.

**Laboratory Business Sector Stability**

The number of RVUs available for each fiscal year depends on the number of laboratories accredited for each fee item. As Figure 4 illustrates, there will be a net increase of two (2) laboratories participating in the program at the onset of FY 2016. This is the first increase in labs in at least 10 years. The increase is in part attributed to changes to NR 812, Wis. Ad min. Code, which promulgated new requirements for private well testing for arsenic and nitrate. The number of overall RVUs still decreased 2.6% due to laboratories reducing the scope of their accreditations. The program continues to monitor the laboratory community and has budgeted conservatively in light of economic pressures on laboratories.

**Figure 4: Number of Laboratories by Fiscal Year**



**Public Hearings**

This proposal consists of an annual fee adjustment under s. NR 149.21 (1) (b), Wis. Adm. Code and does not require a public hearing because the proposal does not involve a rule amendment. A public information meeting to discuss the proposed fee adjustment was held at the Department’s Science Operations Center in Madison on January 6, 2015. All seven members of the Certification Standards Review Council attended the meeting.

**Environmental Analysis**

The requested Board action pertains only to an annual fee adjustment and not a rule amendment. It is therefore a Type III action that will have no material impact on the human environment and does not require an environmental assessment or environmental impact statement.

### **Small Business Regulatory Flexibility Analysis**

The proposal does not require a small business flexibility analysis because the requested action does not pertain to rule making. Approximately 20 of the program's 369 laboratories fit the definition of "small business" specified in s. 227.114(1) Stats. These laboratories include small in-state and out-of-state commercial laboratories. The fee formula in s. NR 149.21 (1) (b), Wis. Adm. Code, is designed to distribute equitably the cost of operating the program across all participating laboratories. Fees cannot be changed for one group of laboratories without affecting the fees assessed to the remaining laboratories.

### **Certification Standards Review Council**

Section 149.21 (1) (b), Wis. Adm. Code, requires the Certification Standards Review Council to review all annual certification and registration fee adjustments. The Council is a nine-member advisory board created under s. 15.107(12), Wis. Stats., to review the standards of the Laboratory Certification and Registration Program and to provide recommendations for improving program performance. Each member represents an environmental laboratory group of stakeholders. Eight members are appointed by the Department of Administration and one member is appointed by the Chancellor of the University of Wisconsin-Madison. All seven current council members represent regulated laboratories that pay certification or registration fees and were in attendance for the budget presentation.

The Council reviewed the program's FY 2016 budget and fee adjustment proposal on January 6, 2015 and passed unanimously a resolution recommending that the Board approve the proposed adjustment. A copy of the signed resolution is included before the Fiscal Estimate form.

### **Fiscal Estimate**

The required Fiscal Estimate and its accompanying worksheet are included at the end of this background memorandum.

### **Recommendation for Natural Resources Board Action**

The Department recommends the Natural Resources Board approve the program's FY 2016 fee adjustment proposal. Additionally, on January 6<sup>th</sup>, 2015 the statutorily created Certification Standards Review Council approved the proposed fee package and recommended approval by the Natural Resources Board.

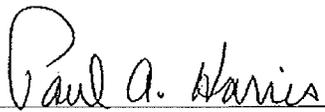
**CERTIFICATION STANDARDS REVIEW COUNCIL RESOLUTION**

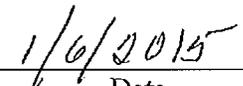
**Whereas** the Laboratory Certification and Registration Program is required by s. 299.11(9), Wis. Stats., to promulgate by rule a graduated schedule of fees designed to recover the costs of administering the Program, and

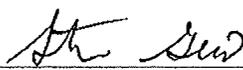
**Whereas** the Certification Standards Review Council is required to by s. NR 149.21 (b), Wis. Adm. Code, to review annual adjustments to this schedule of fees, and

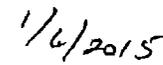
**Whereas** the Certification Standards Review Council has reviewed the Laboratory Certification and Registration Program's proposed Fiscal Year 2016 fee adjustment, then

**Therefore**, be it resolved that the Certification Standards Review Council recommends the Natural Resources Board approve the Laboratory Certification and Registration Program's proposed Fiscal Year 2016 fee adjustment.

  
\_\_\_\_\_  
Paul Harris, Chair  
Certification Standards Review Council

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Steve Geis, Chief  
Environmental Science Services Section  
Bureau of Science Services  
Department of Natural Resources

  
\_\_\_\_\_  
Date

Fiscal Estimate — 2013 Session

<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Updated	LRB Number	Amendment Number if Applicable
<input type="checkbox"/> Corrected	<input type="checkbox"/> Supplemental	Bill Number	Administrative Rule Number NR 149

Subject  
 DNR Laboratory Certification and Registration Program Fees for FY 2016

Fiscal Effect

State:  No State Fiscal Effect  
 Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Existing Appropriation     Increase Existing Revenues  
 Decrease Existing Appropriation     Decrease Existing Revenues  
 Create New Appropriation

Increase Costs — May be possible to absorb within agency's budget.

Yes     No

Decrease Costs

Local:  No Local Government Costs  
 Indeterminate

1.  Increase Costs  
 Permissive     Mandatory  
 2.  Decrease Costs  
 Permissive     Mandatory

3.  Increase Revenues  
 Permissive     Mandatory  
 4.  Decrease Revenues  
 Permissive     Mandatory

5. Types of Local Governmental Units Affected:  
 Towns     Villages     Cities  
 Counties     Others Sanitary Districts  
 School Districts     WTCS Districts

Fund Sources Affected  
 GPR     FED     PRO     PRS     SEG     SEG-S

Affected Chapter 20 Appropriations  
 20.370 (3)(fj)

Assumptions Used in Arriving at Fiscal Estimate

Rule Summary:

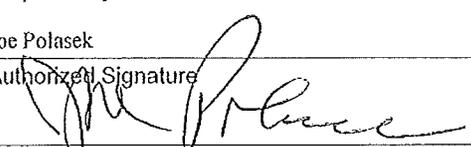
Section 299.11(9) Wis. Stats. authorizes promulgating a graduated schedule of fees for participating laboratories to allow the Department to recover the costs of administering the Laboratory Certification and Registration Program. Fees for each fiscal year are determined using the formula specified in s. NR 149.21 (1) (c), Wis. Adm. Code. The formula uses a relative value system to distribute program costs equitably among all certified and registered laboratories. The system assigns each fee item a number of relative value units (RVUs) based on the complexity of managing an item. The cost of an RVU is determined by dividing the amount of fee revenue necessary to fund the program's projected operating costs by the total number of RVUs available for the fiscal year.

Fiscal Estimate:

The program is projecting costs of \$ 612,121 for FY 2016. This figure represents an increase of \$2,468 (0.4%) from the expenses of \$609,653 budgeted for FY 2015 and remains well below the program's FY 2016 estimated spending authority of \$765,200. In lieu of filling an existing FTE vacancy, the program is budgeting to increase the amount allocated to purchase services from a contractor by another \$20,000 to stay abreast of the audit workload. While the overall number of labs remained steady compared to FY 2015, the program anticipates new lab applications in response to NR 812 rule changes which took effect October 1, 2014.

Per s. NR 149.21 (1) (c), Wis. Adm. Code, the amount of annual fee revenue necessary to fund the program's budget is determined by subtracting projected out-of-state laboratory evaluation travel expenses, which are reimbursable to the program, from projected costs. Total revenue for FY 2016 is projected to be \$612,609, an increase of \$916 (0.1%) from FY 2015. After subtracting \$18,000 for projected out-of-state evaluation travel expenses the Department will adjust the cost per RVU to collect \$594,121 in fee revenue to fund the program in FY 2016. This figure is only \$2,428 (0.4 %) more than the amount of fee revenue required to meet the program's FY 2015 budget. This fee adjustment applies only to FY 2016. Fee adjustments are determined annually.

Long-Range Fiscal Implications

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 01-16-15

Fiscal Estimate — 2013 Session

Page 2 Assumptions Narrative  
Continued

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number NR 149

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Assumptions Used in Arriving at Fiscal Estimate -- Continued

Local Government Laboratories

Fees for local government laboratories will increase by \$2.00 per RVU (3.1% increase). Fees for a wastewater treatment facility (WWTF) that analyzes BOD, TSS, phosphorus, and ammonia will be \$1113.50 in FY 2016 compared to \$1,079.50 charged in FY 2015. Currently, there are 236 municipal wastewater treatment facility and 9 county public health laboratories that participate in the Laboratory Certification and Registration Program. There are a total of 4436 RVUs that are derived from the 245 municipal/county labs. At an increase of \$2.00/RVU, a total additional fiscal burden of \$8,872 would be realized by these government facilities.

**Fiscal Estimate Worksheet — 2013 Session**  
 Detailed Estimate of Annual Fiscal Effect

Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number NR 149

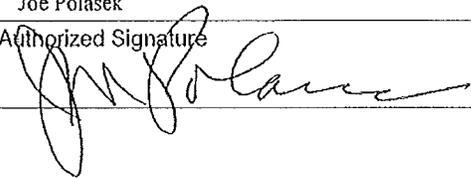
Subject  
 DNR Laboratory Certification and Registration Program Fees for FY 2016

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations — Salaries and Fringes	\$	\$ -	
(FTE Position Changes)	(	FTE )	(- FTE )
State Operations — Other Costs		-	
Local Assistance		-	
Aids to Individuals or Organizations		-	
<b>Total State Costs by Category</b>	\$	\$ -	
<b>B. State Costs by Source of Funds</b>			
GPR	\$	\$ -	
FED		-	
PRO/PRS		-	
SEG/SEG-S		-	
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS		916	-
SEG/SEG-S			-
<b>Total State Revenues</b>	\$	\$ -	

**Net Annualized Fiscal Impact**

	State	Local
Net Change in Costs	\$ 0	\$ 8,872
Net Change in Revenues	\$ 916	\$ 0

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 01-16-15