Form 1100-001N (Rev. 10/12)

Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item

Item No. 3.A.2.

SUBJECT: FY 2017 Laboratory Certification and Registration Program Fee Adjustment

FOR: February 2016 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 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 budget calls for a 0.3% decrease in expenses and fee revenue over FY 2016. Despite a slight decrease in proposed operating expenses, a fee increase of 2.3% is being proposed, due to a reduction in the number of relative value units (RVU).

The proposed fee increase means that an average municipal lab will pay $25.50 more for accreditation. The average commercial lab will pay an additional $112.50. The Certification Standards Review Council, representing a cross section of environmental laboratories, supports the proposed budget plan for FY17.

RECOMMENDATION: The Department recommends that the Natural Resources Board approve the Laboratory Certification and Registration program's FY 2017 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
Greg Pils, Bureau Director		1/12/16
Mark Aquino, Administrator	Mark Aquino	1/15/16
Cathy Stepp, Secretary		2/1/16

cc: Board Liaison – AD/8

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 2017 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 2017 fee adjustment.

Paul Harris

Paul Harris, Chair
Certification Standards Review Council

January 15, 2016
Date

Steve Geis

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

1/15/16
Date

State of Wisconsin

CORRESPONDENCE/MEMORANDUM

DATE: January 12, 2016

TO: Natural Resources Board Members

FROM: Cathy Stepp, Secretary

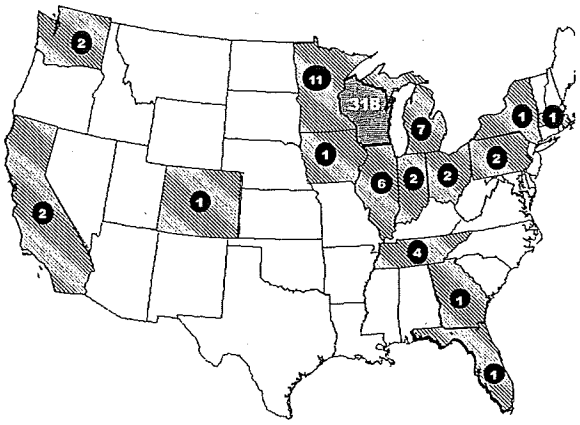
SUBJECT: FY 2017 Laboratory Certification and Registration Fee Adjustment

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 External Services. 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.

At the time this proposal was drafted, 362 laboratories located in Wisconsin and in 15 other states participate in the program. The Department currently certifies 44 out-of-state laboratories.



The Lab Certification and Registration program accredits 362 labs that perform testing of Wisconsin samples, including 44 labs in 15 states other than Wisconsin.

Proposed FY 2017 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 under the authorized spending authority (see figure below) while maintaining a high level of service to its customers.

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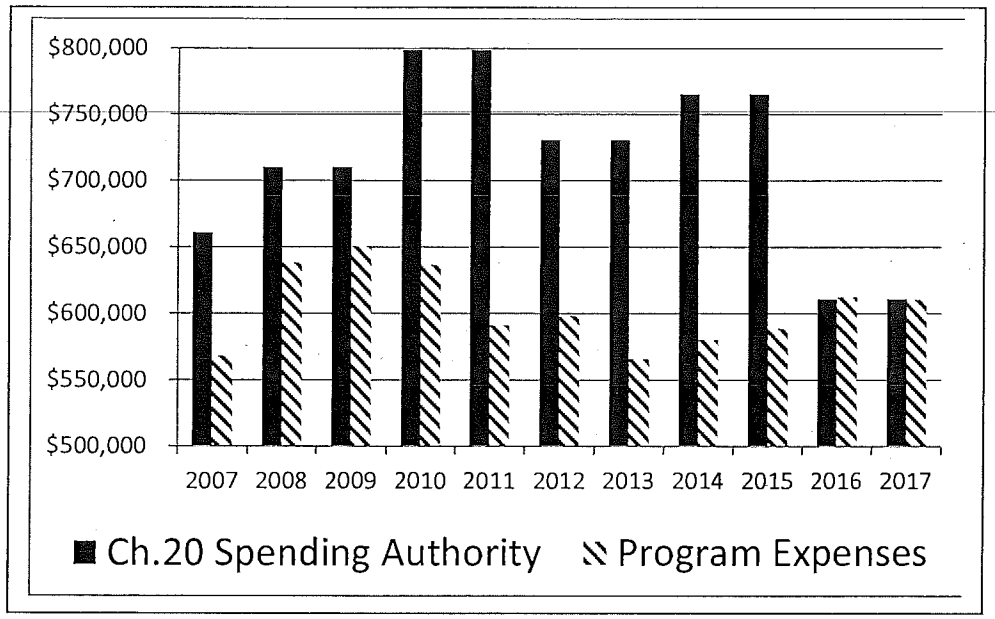


Program Fee Formula

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 basis 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 2017, the Department projects 362 laboratories will be accredited which will constitute a total of 8,847 RVUs. This represents a decrease of 231 (2.5%) RVUs. The FY 2017 cost per RVU is calculated by dividing the required fee revenue, $592,537 by the 8,847 RVUs available, which yields a cost of $66.98 per RVU, rounded, for billing ease, to the nearest half dollar to $67.00. 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 $1.50 (2.3%) from the cost of an RVU in FY 2016.

Projected FY 2017 Expenditures

Salary, Fringe and Position Authority

The FY 2017 salary and fringe expenses total $499,103 (81.7%) of the program's budget. The FY 2017 projected cost for combined salary and fringe is $23,911 (5.0%) more than the corresponding costs in the FY 2016 budget. Due to the impending retirement of its contract auditor, the program is budgeting for a half-time LTE midway through the year for FY 2017. This explains the increase in salary and fringes portion of the budget which is offset by a reduction in the supplies and services part of the budget.

The program has position authority for 5.39 full-time equivalent (FTE) positions for FY 2017. The program will continue to utilize a contract auditor in addition to four FTE auditors to maintain compliance within necessary timelines for lab evaluations, reports and closures. During fiscal 2017 the program plans to transition from using a contractor to hiring one half-time LTE.

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 362 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 $96,334 (15.8%) of the program's budget. This amount is $25,945 (20.9%) less than that budgeted for the same functions in FY 2016. The decrease stems from switching from the use of a contractor to an LTE.

For FY 2017, 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 2.5% of the expense budget.

FY 2017 Budget

The program is submitting a budget of $610,537 for FY 2017. This figure is $1,584 (0.3%) less than the program's FY 2016 budget.

Figure 1
Distribution of FY 2017 Budget Expenditures

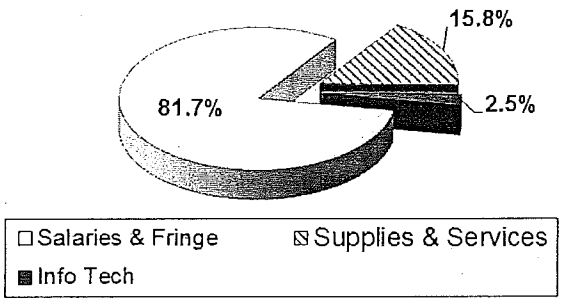


Table 1: FY 2017 budget detail

Expenses

BUDGET ITEM	FY 2017 BUDGET	
Salary and Fringe		
FTE Salary	$	321,980
FTE Fringe	$	154,776
LTE Salary	$	18,000
LTE Fringe	$	4,347
Subtotal: Salary and Fringe	**$**	**499,103**
Supplies and Services		
Contract Auditor	$	36,000
Office Supplies, Services, and Equipment	$	1,000
In-State Travel (Laboratory Audits)	$	13,500
Out-of-StateTravel (Laboratory Audits)	$	18,000
Outreach	$	500
Staff Training	$	500
Postage	$	600
Printing / Copying Services	$	500
Indirect Costs (allocables)	$	21,734
Subtotal: Supplies and Services	**$**	**96,334**
Information and Technology		
Computers and Software	$	2,600
BTS Support Charges	$	12,500
Subtotal: Information and Technology	**$**	**15,100**
TOTAL FY 2017 BUDGET EXPENSES	**$**	**610,537**

Revenues

LabCert Fee Revenue	**$**	**592,749**
LabCert base fee revenue: RVU=2470	$	165,490
LabCert matrix fee revenue: RVU=2200	$	147,400
LabCert technology fee revenue: RVU=3993	$	267,531
LabCert application fee revenue: RVU= 184	$	12,328
Out-of-State Travel Re-imbursements	**$**	**18,000**
TOTAL FY 2017 BUDGET REVENUES	**$**	**610,749**
PROJECTED SURPLUS / (SHORTFALL)	$	212

Fee Basis (Cost/RVU)

REQUIRED FEE REVENUE	**$**	**592,537**
TOTAL FY 2017 BUDGET EXPENSES	$	610,537
Out-of-State Travel Re-imbursements	$	(18,000)
TOTAL BUDGETED RVUS		**8847**
projected lab RVU		8663
projected application RVU		184
COST / RVU (Required Revenue/ Total RVU)	**$**	**67.00**
actual cost per RVU	$	66.98

Fee Impact on Laboratories and Comparison to Other Accreditation Programs

The proposed 2.3% RVU increase means that an average municipal wastewater treatment plant (WWTP) lab will pay $25.50 more for accreditation. The average commercial lab will pay an additional $112.50. 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

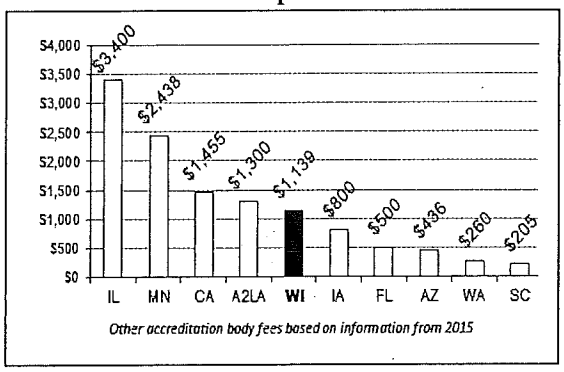


Figure 2: Fees for a typical municipal WWTP lab

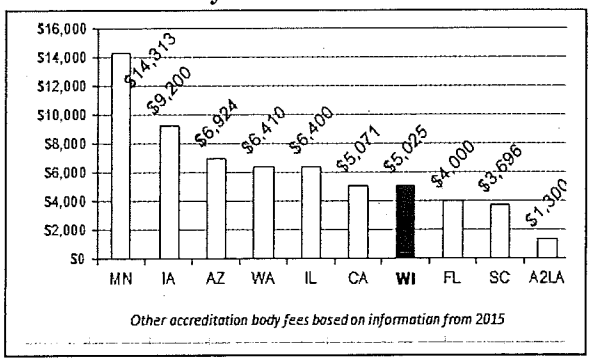
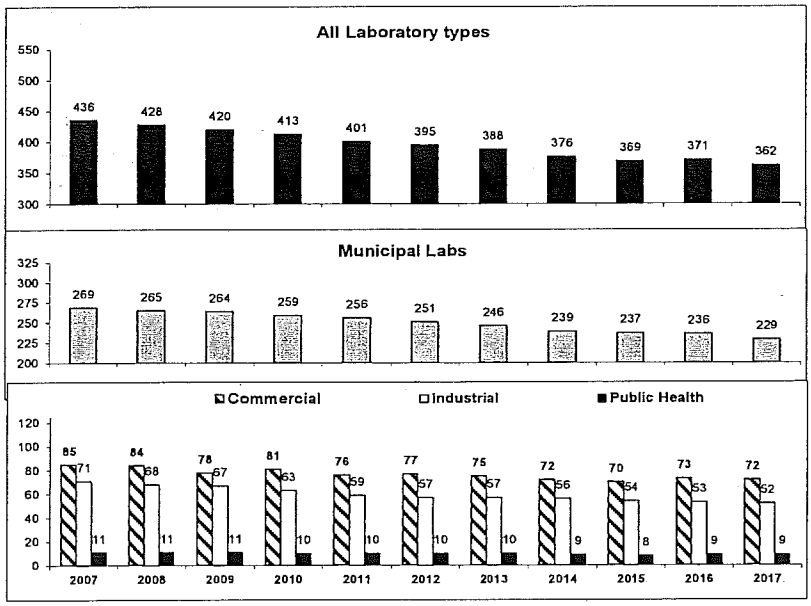


Figure 3: Fees for a typical commercial lab

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 decrease of nine (9) laboratories participating in the program at the onset of FY 2017. The number of overall RVUs decreased 2.5% due to laboratories withdrawing from the program or reducing the scope of their accreditations. Note that due to a reduction in RVUs alone, fees would increase by 2.5%. A slight reduction in program operating expenses allows the program to keep the fee increase to only 2.3%. 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 5, 2016. 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 362 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 2017 budget and fee adjustment proposal on January 5, 2016 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 2017 fee adjustment proposal.

Wisconsin Department of Administration
Division of Executive Budget and Finance
DOA-2048 (R10/2000)

Fiscal Estimate — 2013 Session

☒ Original	☐ Updated	LRB Number	Amendment Number if Applicable
☐ Corrected	☐ Supplemental	Bill Number	Administrative Rule Number NR 149

Subject

DNR Laboratory Certification and Registration Program Fees for FY 2017

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 $610,487 for FY 2017. This figure represents a decrease of $1,584 (-0.3%) from the expenses of $612,121 budgeted for FY 2016 and remains below the program's FY 2017 estimated spending authority of $611,100.

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 2017 is projected to be $610,749, a decrease of $1,860 (0.3%) from FY 2016. After subtracting $18,000 for projected out-of-state evaluation travel expenses the Department will adjust the cost per RVU to collect $592,749 in fee revenue to fund the program in FY 2017. This figure is $1,860 (0.3%) less than the amount of fee revenue required to meet the program's FY 2016 budget. This fee adjustment applies only to FY 2017. Fee adjustments are determined annually.

Long-Range Fiscal Implications

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

Fiscal Estimate — 2013 Session

Page 2 Assumptions Narrative Continued

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

Assumptions Used in Arriving at Fiscal Estimate – Continued

Local Government Laboratories

Fees for local government laboratories will increase by $1.50 per RVU (2.3% increase). Fees for a wastewater treatment facility (WWTF) that analyzes BOD, TSS, phosphorus, and ammonia will be $ 1,139.00 in FY 2017 compared to $1113.50 charged in FY 2016. Currently, there are 229 municipal wastewater treatment facilities and 9 county public health laboratories that participate in the Laboratory Certification and Registration Program. There are a total of 4,310 RVUs that are derived from the 238 municipal/county labs. At an increase of $1.50/RVU, a total additional fiscal burden of $6,465 would be realized by these government facilities.

Wisconsin Department of Administration
Division of Executive Budget and Finance
DOA-2047 (R10/2000)

Fiscal Estimate Worksheet — 2013 Session

Detailed Estimate of Annual Fiscal Effect

☒ Original	☐ Updated	LRB Number	Amendment Number if Applicable
☐ Corrected	☐ Supplemental	Bill Number	Administrative Rule Number NR 149

Subject

DNR Laboratory Certification and Registration Program Fees for FY 2017

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:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations — Salaries and Fringes	$	$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations — Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
Total State Costs by Category	$	$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
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		- 1,860
SEG/SEG-S		-
Total State Revenues	$	$ -

Net Annualized Fiscal Impact

	State	Local
Net Change in Costs	$ 0	$ 6,465
Net Change in Revenues	$ (1,860)	$ 0

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	01-11-16