

DATE: February 23, 2009

TO: Natural Resources Board Members

FROM: Matthew J. Frank, Secretary

SUBJECT: FY 2010 Laboratory Certification and Registration Fee Adjustment

Background

Section 299.11(9), Wis. Stats., authorizes the Department to promulgate a graduated schedule of fees to recover the costs of administering the Laboratory Certification and Registration Program. Chapter NR 149, Wis. Adm. Code, establishes a relative value system for determining annual fee adjustments. The system is designed to distribute equitably the costs of operating the program among all participating laboratories.

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) (f), Wis. Stats. Laboratories participating in the program must pay renewal fees in full to maintain their certifications and registrations.

Chapter NR 149 was revised substantially last year and the revision became effective on September 1, 2008. The formula for establishing the fee schedule was not changed with the chapter's revision. However, the revision changed the type of items that can be assessed relative value units (RVU) as well as the number of RVUs assigned to many items.

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. Laboratory certification and registration fees are included in the Department's consolidated fee billing statements, which are mailed to facilities in early May. The Department seeks Board approval for this fee adjustment in March to avoid any delays in processing fee statements and renewing the certification and registration of participating laboratories.

Under the proposal, the Department will collect sufficient fee revenue to operate the program at \$161,779 (20.26%) below its \$798,600 estimated spending authority. The number of RVUs available for FY 2010 is 10,468, representing an increase of 1466 (16.29%) units. The cost per RVU proposed for FY 2010 is \$57.50, which is \$10.50 (15.44%) less than the RVU cost in FY 2009. The number of laboratories in the program has declined, although not dramatically. For FY 2010 the program is distributing costs among 413 laboratories, seven less (1.67%) than those in the program in FY 2009.

Recommendation for Board Action

The Department recommends the Board approve the program's FY 2010 fee adjustment proposal.

The rest of this memorandum describes the fee adjustment proposal and its effect on regulated laboratories in detail.

Laboratory Certification and Registration Program Overview

The Laboratory Certification and Registration Program is managed by the Environmental Science Services Section in the Bureau of Science Services of the Division of Enforcement and Science. The program ensures the quality and defensibility of the environmental laboratory data submitted to the Department through regular laboratory on-site evaluations, proficiency testing, and outreach efforts. By rule, all 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, 413 laboratories located in Wisconsin and in 18 other states participated in the program. The Department currently certifies 50 out of state laboratories. Eight of those laboratories are certified through reciprocal agreements with the states of Michigan, North Carolina, South Carolina, and Washington. The Department directly administers certification for the remainder.

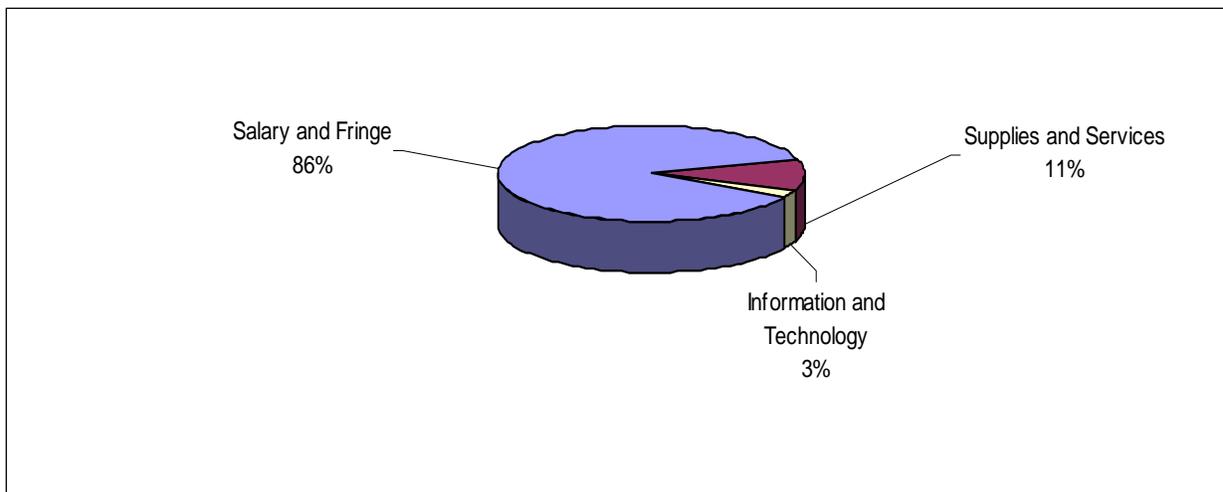
FY 2010 Budget

The program is submitting a budget of \$636,821 for FY 2010. This figure is \$13,830 (2.13%) less than the program’s FY 2009 budget and \$161,779 (20.26%) below its estimated \$798,600 spending authority for FY 2010. The decrease in the proposed FY 2010 budget is the result of a reduction in salary and fringe expenditures caused by a recent vacancy in the program.

Projected FY 2010 Expenditures

Salary and fringe benefits constitute \$552,721 (86%) of the program’s FY 2010 budget. The remaining \$84,100 is distributed between allocations for supplies and services, and information and technology. Figure 1 below illustrates the distribution of the program’s FY 2010 budget expenditures.

Figure 1
Distribution of FY 2010 Budget Expenditures



Salary and Fringe

The FY 2010 salary and fringe expenses total \$552,721 (86%) of the program's budget. The program's fee revenue will fund 7.39 full-time equivalent (FTE) positions in FY 2010. However, one of those positions will become vacant in March and is projected to remain vacant for part of FY 2010. This budget reflects a reduction in associated costs.

One FTE position is assigned to a Program Chemist that performs most of 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 staff performs compliance evaluations of the 413 laboratories enrolled in the program and provide technical and regulatory support to Department staff and the regulated laboratory community.

The FY 2010 projected cost for salary and fringe is \$28,730 (4.94%) less than the corresponding costs in the FY 2009 budget. Salary expenditures for FY 2010 are projected to be \$19,705 (5.03%) less than the corresponding costs in the FY 2009 budget. Fringe projections for FY 2010 are \$9,026 (4.76%) less than the corresponding costs in FY 2009. Fringe costs for FY 2010 are 48.59% of salary.

Supplies and Services

Supplies and services account for \$67,100 (10.54%) of the program's budget. This amount is \$13,900 (26.13%) more than that budgeted for FY 2009.

Projected costs for in-state travel laboratory evaluations are the principal contributors to the increase. The costs of performing in-state evaluations consider that the section is now fully staffed and that the costs for fuel and vehicle maintenance have increased. Additionally, the program is being assessed a fee to help defray the cost of maintaining the Department's fleet vehicles, which are used by our program mostly to perform in-state laboratory evaluations. The FY 2010 budget for in-state travel to perform laboratory evaluations is \$8,400 (70%) more than the corresponding amount in the FY 2009 budget. Of this increase, \$5,400 (55.6%) is the cost assessed to maintain the Department's fleet.

The projected costs for out-of-state travel to perform laboratory evaluations have increased in FY 2010 by \$5,000 (45.45%). It is important to note that although out-of-state evaluation travel expenses are included in the program's budget, the Department recovers these expenses by billing all out-of-state laboratories for all evaluation-related travel expenses. In turn, per s. NR 149.21 (1) (c), these expenses are not included in the calculation of the program's fee schedule. The sum of projected travel expenses for in and out-of-state evaluations of laboratories in FY 2010 is \$13,400 (58.26%) more than the sum of the same expenses projected in FY 2009.

Following the advice of the Certification Standards Review Council, the Department is projecting spending \$15,000 to produce outreach materials for the state's certified and registered laboratories. The materials include educational documents and workshops to help laboratories increase their knowledge of environmental test procedures, and promote a better understanding of state and federal regulations affecting laboratories. During FY 2010 the Department expects to use part of these funds to continue to instruct laboratories on requirements resulting from the latest revision to Chapter NR 149.

Information and Technology (IT)

The program's IT budget for FY 2010 is \$17,000. This amount is \$1,000 (6.25%) more than the amount projected for FY 2009.

Table 1 on the next page provides an itemized summary of the program's FY 2009 budget.

**Table 1
FY 2010 Laboratory Certification Program Budget**

BUDGET ITEM	FY 2009 BUDGET
Salary and Fringe	
FTE Salary	\$ 371,977
FTE Fringe	\$ 180,744
Subtotal: Salary and Fringe	\$ 552,721
Supplies and Services	
Office Supplies, Services, and Equipment	\$ 2,500
In-State Travel for Laboratory Evaluations	\$ 20,400
Out-of-State Travel for Laboratory Evaluations*	\$ 16,000
Outreach	\$ 15,000
Staff Training	\$ 5,000
Postage	\$ 3,400
Printing and Copying Services	\$ 800
Telecommunications	\$ 4,000
Subtotal: Supplies and Services	\$ 67,100
Information and Technology	
Computers and Software	\$ 11,000
BTS Support Charges	\$ 6,000
Subtotal: Information and Technology	\$ 17,000
TOTAL FY 2010 BUDGET	\$ 636,821

**Not included in total used for fee calculations.*

Fee Revenue Necessary to Fund FY 2010 Budget

Section NR 149.21 (1), Wis. Adm. Code, authorizes the Department to collect sufficient fee revenue equal to the Department of Administration's approved spending authority for the program. Fees are charged to all enrolled laboratories to recover the costs of administering the program. However, NR 149.21 (1) (c) 1.c, allows the Department to collect a lesser amount than the authorized spending authority. The program historically has strived to keep fees reasonable by submitting budgets below the program's authorized spending authority, as shown in Table 2.

**Table 2
Historical Comparison of Program Budget and Ch. 20 Spending Authority**

Fiscal Year	Ch. 20 Spending Authority (Estimated at Budget Time)	Program Budget	Difference
2000	\$539,100	\$521,150	\$17,950
2001	\$539,100	\$539,100	\$0
2002	\$572,200	\$517,229	\$54,971
2003	\$572,200	\$526,846	\$45,154
2004	\$598,700	\$546,736	\$51,964
2005	\$598,700	\$551,558	\$47,142
2006	\$660,800	\$578,100	\$82,700
2007	\$660,800	\$568,300	\$92,500
2008	\$710,100	\$638,318	\$71,782
2009	\$712,900	\$650,651	\$62,249
2010	\$798,600	\$636,821	\$161,779

Out-of state laboratories are billed for all evaluation-related travel expenses. The Department must budget for these expenses, but because the costs will be reimbursed by the out-of-state laboratories, the program does not need to collect fee revenue to fund the costs. Subtracting \$16,000 for these projected, but reimbursable travel expenditures leaves \$620,821 of needed fee revenue.

For FY 2010, the Department proposes to rollover \$20,000 from unspent accumulated revenue of FY 2009 to offset fees charged to laboratories participating in the program. The Department used \$30,000 in FY 2009 from accumulated reserves for the same purpose. Subtracting the \$20,000 from \$620,821 leaves \$600,821 that the Department will need to collect to fund the remainder of the program's FY 2010 operating expenses.

Determination of FY 2010 Fee Schedule

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.

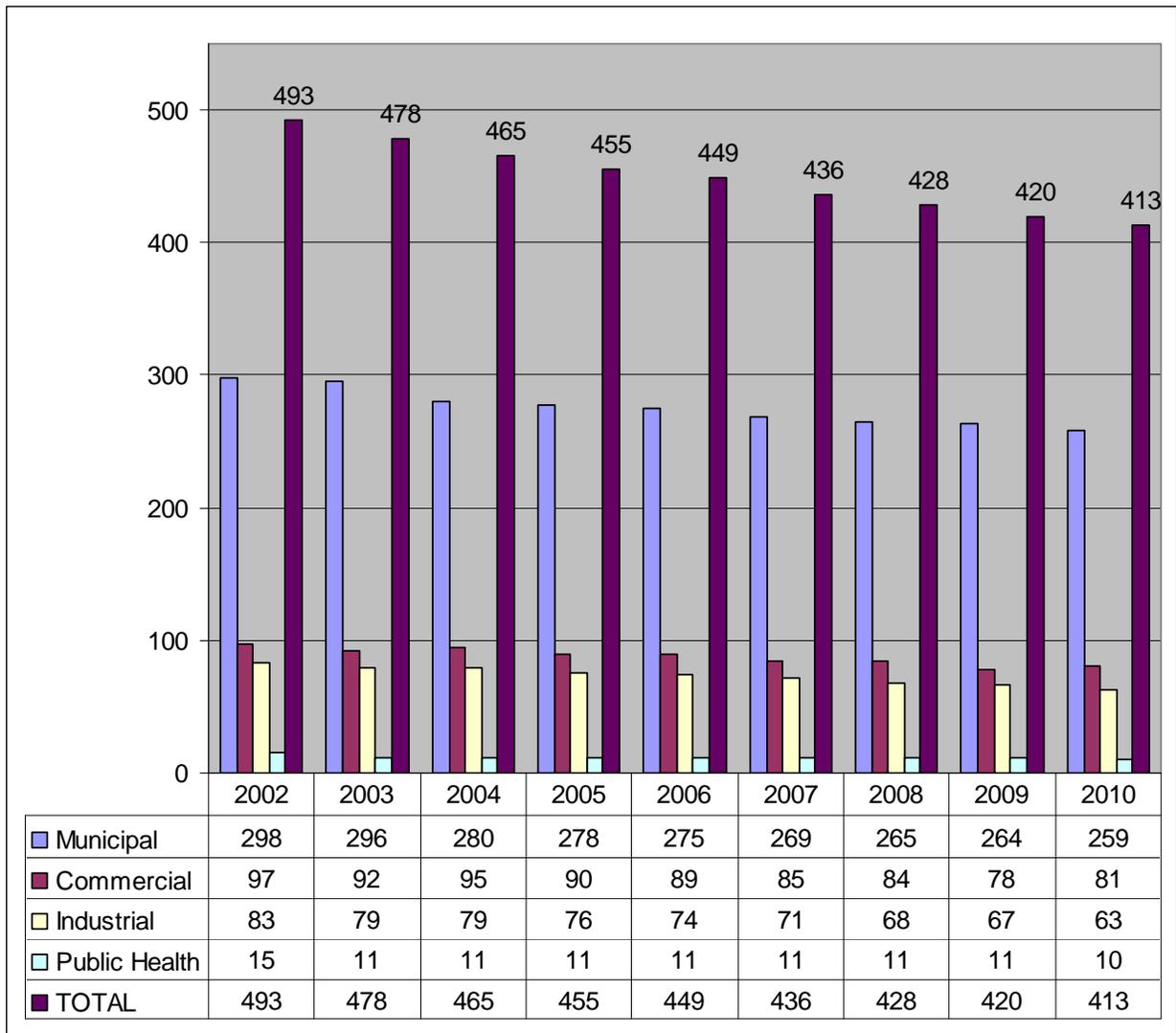
This latest revision of Chapter NR 149 assigns RVUs on a different, but more efficient, basis than the assignment made by the previous version of the Chapter. RVU assignments continue to be based on the complexity of an item or the associated effort in managing the item; however, the current version of

Chapter NR 149 assigns RVUs to the matrices or types of samples laboratories analyze, the analytical technology laboratories use to analyze aqueous and solid samples, and the class of compounds laboratories analyze in drinking water. This change makes it difficult to compare exactly the RVU assessments of FY 2009 to those of FY 2010.

The cost per RVU continues to be determined by dividing the program’s budgeted operating expenses, excluding out-of-state evaluation travel expenses, and for FY 2010, a revenue rollover, 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.

The number of RVUs available for each fiscal year depends on the number of laboratories certified or registered for each fee item. As figure 2 illustrates, there will be seven fewer laboratories participating in the program at the onset of FY 2010 than there were at the onset of FY 2009, a decrease of 1.67%.

Figure 2
Number of Laboratories by Fiscal Year



For FY 2010, the Department projects that 413 laboratories will be certified or registered for a total of 10,468 RVUs. This represents an increase of 1466 (16.29%) more RVUs, but this is a function of the different basis for assessing RVUs by the revised Chapter NR 149, instead of an increase in the number of participating laboratories, or certifications and registrations in a specific fee generating item.

The FY 2010 cost per RVU is calculated by dividing the \$600,821 required fee revenue by the 10,468 RVUs available, which yields a cost of \$57.40 per RVU, rounded up, for billing ease to the nearest half dollar, to \$57.50. This represents a decrease of \$10.50 (15.44%) from the cost of an RVU in FY 2009. The decrease is a function of the projected lower salary and fringe costs and the changed basis for assessing RVUs specified by the current Chapter NR 149.

Tables 3 and 4 summarize alternative premises for fee collection and the effect they would have on laboratory fees and the program’s balance sheet. Table 5 projects how much an RVU would cost without the proposed revenue rollover.

**Table 3
Alternative Bases for Fee Collection
(With Rollover)**

Item for Comparison	No Fee Adjustment (FY 2009 Fees)	Proposed FY 2010 Fee Adjustment	Maximum FY 2010 Fee Adjustment*
Cost per RVU	\$68.00	\$57.50	\$76.00
Estimated Fee Revenue	\$711,824	\$601,910	\$798,600
Estimated Travel Reimbursement	\$16,000	\$16,000	\$16,000
Rollover	\$20,000	\$20,000	\$20,000
Total Estimated Revenues	\$747,824	\$637,910	\$834,600
Total Estimated Expenses	\$636,821	\$636,821	\$636,821
Total Shortfall/Surplus	\$111,003	\$1,089	\$197,779

* Collecting revenue as close to spending authority as possible.

**Table 4
Alternative Bases for Fee Collection
(Without Rollover)**

Item for Comparison	No Fee Adjustment (FY 2009 Fees)	Proposed FY 2010 Fee Adjustment	Maximum FY 2010 Fee Adjustment*
Cost per RVU	\$68.00	\$57.50	\$76.00
Estimated Fee Revenue	\$711,824	\$601,910	\$798,600
Estimated Travel Reimbursement	\$16,000	\$16,000	\$16,000
Rollover	\$0.00	\$0.00	\$0.00
Total Estimated Revenues	\$727,824	\$617,910	\$814,600
Total Estimated Expenses	\$636,821	\$636,821	\$636,821
Total Shortfall/Surplus	\$91,003	(\$18,911)	\$177,779

* Collecting revenue as close to spending authority as possible.

Table 5
RVU Cost to Meet Necessary Fee Revenue
Without Rollover

Item	Amount or Number
Budget Amount	\$636,821
Estimated Travel Reimbursement	\$16,000
Necessary Fee Revenue	\$652,821
Number of RVUs	10,468
Cost Per RVU	\$62.50
Total Shortfall/Surplus	\$1,429

* *Rounded from \$62.36*

Without the added income of the revenue rollover, the cost of an RVU would need to be \$62.50 to meet the funds required to operate the program.

As tables 3 and 4 show, the proposed rollover and cost for an RVU allow the program to operate safely at \$161,779 (20.26%) below its \$798,600 authorized spending authority.

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 3 and 4.

Figure 3:
Comparison of Various Annual State Laboratory Certification Fees in
Descending Order for Typical Commercial Laboratories

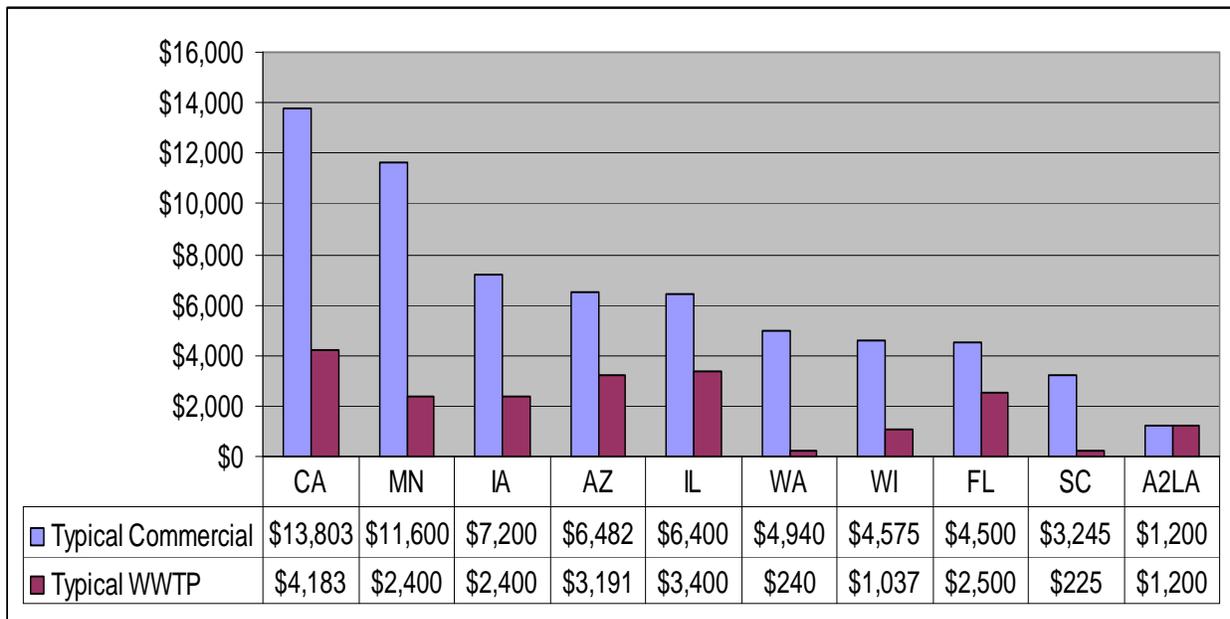


Figure 3 shows that the proposed annual fees for a typical commercial laboratory certified in Wisconsin are below those of six states with comparable programs, two (CA, IL) of which, are recognized by the National Environmental Laboratory Accreditation Program (NELAP). A2LA is a not-for-profit third party accreditor of environmental laboratories. The figure does not include the costs assessed by Minnesota and A2LA for on-site evaluations. Laboratories located in Wisconsin are not assessed an on-site evaluation fee by our program.

**Figure 4:
Comparison of Various Annual State Laboratory Certification Fees in
Descending Order for Typical Wastewater Treatment Plant Laboratories**

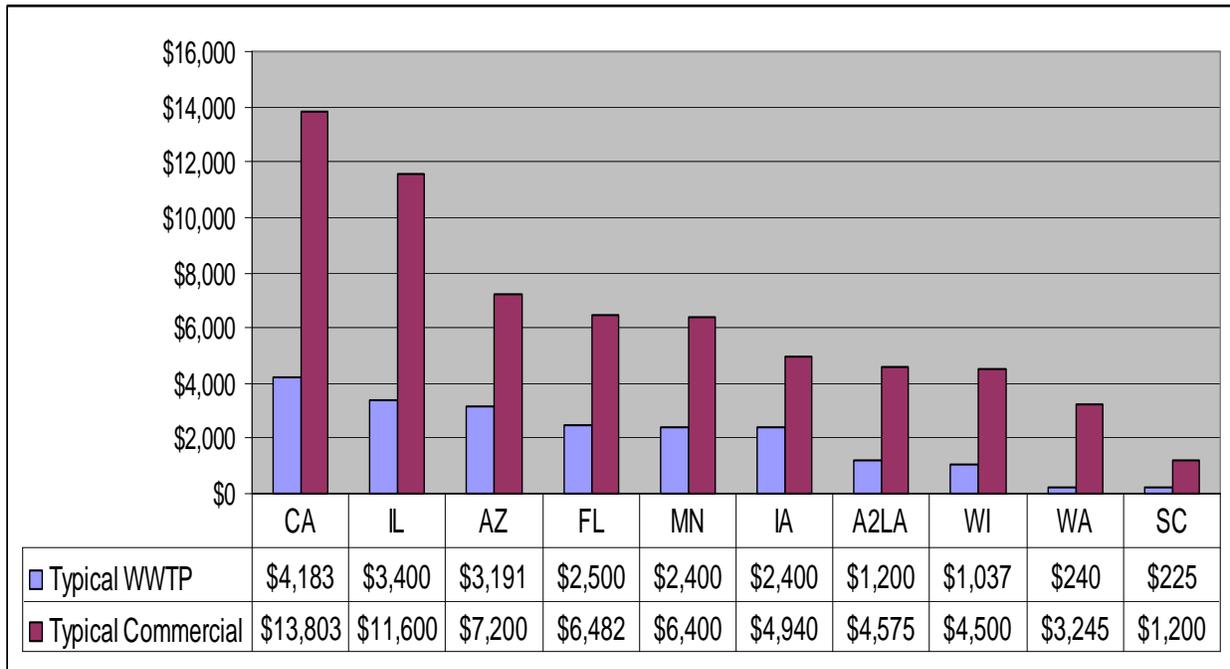


Figure 4 shows that the proposed annual fees for a typical wastewater treatment plant laboratory are below those of six states with comparable programs, three (CA, IL, FL) of which are recognized by NELAP, and below those of A2LA.

The complete fee schedule proposed for FY 2010 is presented in Table 6. The table indicates the number of RVUs per fee item and the fee item price for FY 2010.

Table 7 contains the fee schedule assessed last year. As is evident from a comparison of the two tables, the manner of assessing fees under the current Chapter NR 149 is sufficiently different to make it difficult to compare the fees of both fiscal years on a one-to-one basis.

**Table 6
Laboratory Certification and Registration Program
FY 2010 Fee Schedule**

FEE TYPE	FEE Item	Number of RVUs	FEE Amount
Administrative	Late Renewal Fee	2	\$115.00
Application	Application Fee - Reciprocity	4	\$230.00
Application	Application Fee - Initial	6	\$345.00
Application	Application Fee - Revised	3	\$172.50
Application	Application Fee - Transfer of Ownership	4	\$230.00
Base	Annual Base Fee - Reciprocity	10	\$575.00
Base	Annual Base Fee - Certified	10	\$575.00
Base	Annual Base Fee - Registered	5	\$287.50
Matrix	Matrix Fee - Aqueous	5	\$287.50
Matrix	Matrix Fee - Drinking Water	5	\$287.50
Matrix	Matrix Fee - Solids	5	\$287.50
Analytical Technology, Aqueous and Solid	Oxygen Demand assays (BOD or cBOD)	3	\$172.50
Analytical Technology, Aqueous and Solid	Colorimetric or Nephelometric (Turbidimetric)	2	\$115.00
Analytical Technology, Aqueous and Solid	Combustion or Oxidation	2	\$115.00
Analytical Technology, Aqueous and Solid	Electrometric Assays (e.g. Probe, Ion-Selective Electrode)	1	\$57.50
Analytical Technology, Aqueous and Solid	Gravimetric Assays - Residue (solids)	1	\$57.50
Analytical Technology, Aqueous and Solid	Gravimetric Assays - Oil and Grease or Hexane Extractable Materials (HEM)	2	\$115.00
Analytical Technology, Aqueous and Solid	Ion Chromatography (IC)	3	\$172.50
Analytical Technology, Aqueous and Solid	Titrimetric or Potentiometric Titration Assays	1	\$57.50
Analytical Technology, Aqueous and Solid	Cold Vapor Atomic Absorption or Gaseous Hydride Spectrophotometry	3	\$172.50
Analytical Technology, Aqueous and Solid	Flame Atomic Absorption Spectrophotometry	2	\$115.00

Analytical Technology, Aqueous and Solid	Graphite Furnace Atomic Absorption Spectrophotometry	3	\$172.50
Analytical Technology, Aqueous and Solid	Inductively Coupled Plasma Emission Spectrophotometry (ICP)	4	\$230.00
Analytical Technology, Aqueous and Solid	Inductively Coupled Plasma-Mass Spectrometry (ICP/MS)	5	\$287.50
Analytical Technology, Aqueous and Solid	Ultra-Low Level Metals Assays	3	\$172.50
Analytical Technology, Aqueous and Solid	Gas Chromatography (GC)	3	\$172.50
Analytical Technology, Aqueous and Solid	Gas Chromatography- Mass Spectrometry (GC/MS)	4	\$230.00
Analytical Technology, Aqueous and Solid	High Resolution Gas Chromatography-Mass Spectrometry (HRGC/MS)	10	\$575.00
Analytical Technology, Aqueous and Solid	High Performance Liquid Chromatography (HPLC)	3	\$172.50
Analytical Technology, Aqueous and Solid	Liquid Chromatography- Mass Spectrometry	4	\$230.00
Analytical Technology, Aqueous and Solid	Whole Effluent Toxicity Assays	5	\$287.50
Analytical Technology, Aqueous and Solid	Cold Vapor Atomic Fluorescence Spectrometry (CVAFS)	3	\$172.50
Analytical Technology, Aqueous and Solid	Thermal Decomposition Atomic Absorption	3	\$172.50
Analytical Technology, Aqueous and Solid	Colorimetric or Nephelometric (Turbidimetric)	2	\$115.00
Analytical Technology, Aqueous and Solid	Combustion or Oxidation	2	\$115.00
Analytical Technology, Aqueous and Solid	Electrometric Assays (i.e. probe, ion-selective electrode)	1	\$57.50
Analytical Technology, Aqueous and Solid	Gravimetric Assays - Residue (Solids)	1	\$57.50
Analytical Technology, Aqueous and Solid	Ion Chromatography (IC)	3	\$172.50
Analytical Technology, Aqueous and Solid	Titrimetric or Potentiometric Titration Assays	1	\$57.50
Analytical Technology, Aqueous and Solid	Cold Vapor Atomic Absorption or Gaseous Hydride Spectrophotometry	3	\$172.50

Analytical Technology, Aqueous and Solid	Flame Atomic Absorption Spectrophotometry	2	\$115.00
Analytical Technology, Aqueous and Solid	Graphite Furnace Atomic Absorption Spectrophotometry	3	\$172.50
Analytical Technology, Aqueous and Solid	Inductively Coupled Plasma Emission Spectrophotometry (ICP)	4	\$230.00
Analytical Technology, Aqueous and Solid	Inductively Coupled Plasma-Mass Spectrometry (ICP/MS)	5	\$287.50
Analytical Technology, Aqueous and Solid	Ultra-Low Level Metals Assays	3	\$172.50
Analytical Technology, Aqueous and Solid	Gas Chromatography (GC)	3	\$172.50
Analytical Technology, Aqueous and Solid	Gas Chromatography-Mass Spectrometry (GC/MS)	4	\$230.00
Analytical Technology, Aqueous and Solid	High Resolution Gas Chromatography-Mass Spectrometry (HRGC/MS)	10	\$575.00
Analytical Technology, Aqueous and Solid	High Performance Liquid Chromatography (HPLC)	3	\$172.50
Analytical Technology, Aqueous and Solid	Liquid Chromatography-Mass Spectrometry	4	\$230.00
Analytical Technology, Aqueous and Solid	Waste Characterization Extractions	1	\$57.50
Analytical Technology, Aqueous and Solid	Waste Characterization Assays	1	\$57.50
Analytical Technology, Aqueous and Solid	Cold Vapor Atomic Fluorescence Spectrometry (CVAFS)	3	\$172.50
Analytical Technology, Aqueous and Solid	Thermal Decomposition Atomic Absorption	3	\$172.50
<i>Maximum, Aqueous Technology</i>	<i>Maximum Aqueous Technology Fee</i>	22	\$1,265.00
<i>Maximum, Solid Technology</i>	<i>Maximum Solids Technology Fee</i>	22	\$1,265.00
Analytical Class, Drinking Water	Disinfection Byproducts	5	\$287.50
Analytical Class, Drinking Water	Primary Inorganic Contaminants (Non-Metals)	3	\$172.50
Analytical Class, Drinking Water	Primary Inorganic Contaminants (Metals)	6	\$345.00
Analytical Class, Drinking Water	Secondary Contaminants (Non-Metals)	2	\$115.00
Analytical Class, Drinking Water	Secondary Contaminants (Metals)	3	\$172.50

Analytical Class, Drinking Water	Synthetic Organic Contaminants (SOC) - Dioxin	8	\$460.00
Analytical Class, Drinking Water	SOC - Organochlorine Pesticides	3	\$172.50
Analytical Class, Drinking Water	SOC - N/P Pesticides	3	\$172.50
Analytical Class, Drinking Water	SOC - Herbicides	3	\$172.50
Analytical Class, Drinking Water	SOC - Miscellaneous	4	\$230.00
Analytical Class, Drinking Water	Trihalomethanes (THM)	2	\$115.00
Analytical Class, Drinking Water	Volatile Organic Compounds (VOC)	4	\$230.00
<i>Maximum, Drinking Water Class</i>	<i>Maximum Drinking Water Class Fee</i>	31	\$1,782.50
Average Commercial Lab Fee			\$4,313
Average WWTP Lab Fee			\$978
Maximum Lab Fee			\$5,750
Current RV Value			\$57.50
Current Capped RV Total			10468

Table 7
Laboratory Certification Program
FY 2009 Fee Schedule

Fee Item	Relative Value	Number of Laboratories per Fee Item	FY 2009 Item Price (RVU = \$68.00)
Registered Base Fee	10	256	\$680.000
Certified Base Fee	15	157	\$1,020.00
Reciprocity Fee	30	7	\$2,040.00
Initial Application Fee	6	4	\$408.00
Revised Application Fee	3	35	\$204.00
Test Category 1	1	332	\$68.00
Test Category 2	1	185	\$68.00
Test Category 3	1	204	\$68.00
Test Category 4	1	371	\$68.00
Test Category 5	2	56	\$136.00
Test Category 6	2	86	\$136.00
Test Category 7	4	52	\$272.00
Test Category 8	4	72	\$272.00
Test Category 9	4	13	\$272.00
Test Category 10	4	39	\$272.00
Test Category 11	4	3	\$272.00
Test Category 12	4	30	\$272.00
Test Category 13	4	16	\$272.00
Test Category 14	4	13	\$272.00
Test Category 15	12	23	\$816.00
Test Category 16	4	42	\$272.0
Test Category 17	12	6	\$816.00
Test Category 18	20	34	\$1,360.00
Test Category 18a (Nitrate and Nitrite Only)	2	10	\$136.00
Test Category 18b (Nitrate, Nitrite, and Fluoride Only)	4	1	\$272.00
Test Category 19	4	10	\$272.00
Test Category 20	26	6	\$1,768.00
Test Category 21	4	1	\$272.00

FY 2009 Cost to Laboratories

Cost to a typical wastewater treatment plant laboratory (Categories 1-4):	\$952.00
Cost to a typical commercial laboratory (Categories 1-8, 10, 12, and 14-16)	\$4,012.00
Maximum (Certified base fee plus all test categories)	\$9,044.00

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 headquarters in Madison on February 17, 2009. No members of the regulated community or the public 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 II 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 413 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. Six council members represent regulated laboratories that pay certification or registration fees.

The Council reviewed the program's FY 2010 budget and fee adjustment proposal on February 10, 2009 and passed unanimously a resolution recommending that the Board approve the proposed adjustment as presented to the Council at that time. After the Council approved the budget resolution, the program became aware of an impending vacancy effective March 2009. The revised budget was not re-submitted to the Council, given the deadlines established for endorsement by the Department and approval by the Natural Resources Board for action items, but also, understanding that the Council would not object to a fee adjustment that would further reduce fees to participating laboratories. The Council's Chair was notified about the Department's revised fee adjustment package and he recommended presenting it for approval to the Natural Resources Board.

Fiscal Estimate

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

Fiscal Estimate — 2007 Session

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

DNR Laboratory Certification and Registration Program Fees for FY2010

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 equitably program costs 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 \$636,821 for FY 2010. This figure represents a decrease of \$13,830 (2.13%) from the expenses of \$650,651 projected for FY 2009 and remains at \$161,779 (20.26%) below the program's FY 2010 spending authority of \$798,600. The decrease results from reductions to salary and fringe costs afforded by a recent vacancy in the program. The number of laboratories participating in the program has remained relatively stable at a loss of seven laboratories.

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. The program will also roll over \$20,000 of available revenue to FY 2010. After subtracting \$16,000 for projected out-of-state evaluation travel expenses, and \$20,000 from revenue rollover, the Department will need to collect \$600,821 in fee revenue to fund the program in FY 2010. This figure is \$8,830 (1.45%) less than the amount of fee revenue required to meet the program's FY 2009 budget. This fee adjustment applies only to FY 2010. 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 — 2007 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 the typical local government laboratory will increase by \$26 (2.73%). There are 269 local government laboratories participating in the Laboratory Certification and Registration Program, of which approximately 196 are typical laboratories. Typical government laboratories do not provide services for hire and are registered for performing simpler tests. The total additional costs to these typical local government laboratories will be \$5,096.

Fiscal Estimate Worksheet — 2007 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 FY2010

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
A. State Costs by Category			
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			- 13,830
SEG/SEG-S			-
State Revenues	<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	Increased Revenue	Decreased Revenue
GPR Taxes	\$	\$ -	
GPR Earned			-
FED			-
PRO/PRS			- 8,830
SEG/SEG-S			-
Total State Revenues	\$	\$ -	

Net Annualized Fiscal Impact

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$ -13,830	\$ 5,096
Net Change in Revenues	\$ -8,830	

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