

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

**SUBJECT:**

Request that the Board approve the statement of scope for Board Order SS-22-12, proposed rules affecting NR 149, Wis. Admin. Code related to requirements for laboratories participating in the laboratory certification and registration program.

**FOR: May 2013 Board meeting**

**PRESENTER'S NAME AND TITLE:** Camille Turcotte, Environmental Science Services Section Chief

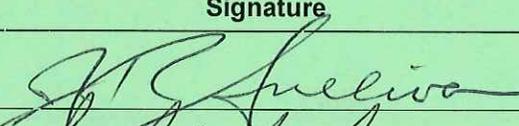
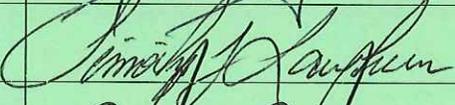
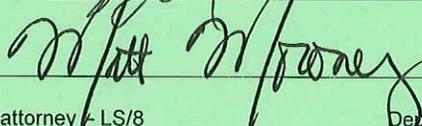
**SUMMARY:**

NR149 establishes a program for the registration and certification of laboratories that submit data to the Department under covered programs. The purpose of this proposed rule package is to amend NR 149, Wis. Admin. Code, to bring it up to date with federal regulations, address technological changes and to clarify the regulations. The rule currently contains sections on: the process for obtaining certification, on-site laboratory evaluations of registered/certified laboratories, and required quality systems. Proposed changes will ensure that each section of the rule is current and clear. Some examples of needed changes include: updating appendices, changing regulations to mirror Federal requirements, updating the fee language to more accurately reflect revenue from applications, clarifying definitions, and updating applicable technologies. These proposed rule changes will not have a significant economic impact on any entities or small businesses. The rule was last updated in 2008. The revisions at that time were extensive. These revision to the rule will be minor in scope to update requirements and provide clarity to previous changes. The Department believes the economic impact would be no additional cost to the laboratories because the regulatory changes will be minor (insignificant impact on small businesses). Our fee structure may have some small modifications to specific RVU designations or calculation methods but we do not anticipate any significant economic impacts.

**RECOMMENDATION:** That the Board approve the statement of scope for Board Order SS-22-12.

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

- |  |   |
|--|---|
| <input type="checkbox"/> (choose one)  | <input type="checkbox"/> Attachments to background memo                     |
| <input checked="" type="checkbox"/> Statement of scope                           | <input checked="" type="checkbox"/> Governor approval of statement of scope |
| <input type="checkbox"/> Fiscal estimate and economic impact analysis (EIA) form | <input type="checkbox"/> Environmental assessment or impact statement       |
| <input type="checkbox"/> Response summary  | <input type="checkbox"/> Board order/rule                                   |

Approved by	Signature	Date
John R. Sullivan , Bureau Director		4/10/2013
Tim Lawhern, Administrator		4/22/13
Cathy Stepp, Secretary		4/30/13

cc: Board Liaison - AD/8

Program attorney - LS/8

Department rule coordinator - LS/8

DATE: March 15, 2013  
TO: Natural Resources Board Members  
FROM: Cathy Stepp, Secretary  
SUBJECT: Scoping Statement Related to Revision of NR 149

### **Subject/Objective of Proposed Rule**

Chapter NR 149, Wis. Admin. Code establishes requirements for laboratories participating in the Laboratory Certification and Registration Program. The rule was last updated in 2008 and there is a need to revise the rule to update it, provide clarity to regulations, and correct minor errors.

### **Description of Policy Issues/Analysis of Policy Alternatives**

NR149 establishes a program for the registration and certification of laboratories that submit data to the Department under covered programs. The purpose of this proposed rule package is to amend NR 149, Wis. Admin. Code, to bring it up to date with federal regulations, address technological changes, and clarify regulations.

The rule currently contains sections on: the process for obtaining certification, on-site laboratory evaluations of registered/certified laboratories, and required quality systems. Proposed changes will ensure that each section of the rule is current and clear. Some examples of needed changes include: updating appendices, changing regulations to mirror Federal requirements, updating the fee language to more accurately reflect revenue we receive from applications, clarifying definitions, and updating applicable technologies.

### **Economic Impact**

These proposed rule changes will not have a significant economic impact on any entities or small businesses. Changes to the rule will be minor in scope to update requirements and provide clarity. The Department believes the economic impact would be no additional cost to the laboratories because the regulatory changes will be minor (insignificant impact on small businesses). Our fee structure may have some small modifications to specific RVU designations or calculation methods but we do not anticipate any significant economic impacts.

### **Statutory Authority**

Wisconsin Stat. s. 299.11 (7) authorizes the Department to prescribe by rule the registration and certification of laboratories. Wisconsin Stat. s. 299.11(4) authorizes the Department to require that data submitted to the Department under a "covered program" be generated in a laboratory that is registered or certified. Covered programs are defined in Wisconsin Stat. s. 299.11(d) and include solid waste, mining, wastewater, groundwater, drinking water, and hazardous

substances. Wisconsin Stat. s. 299.11(7)(a) specifies that the Department shall establish the criteria that will be used to register and certify laboratories.

### **Estimate of Time Needed to Develop the Rule**

It will take state employees approximately 300 hours to develop the rule and other resources to make the changes needed.

### **Summary and Comparison of Applicable Federal Regulations**

This rule package will ensure state rules are consistent with federal regulations.

### **Entities Affected by the Rule**

74 Commercial Analytical Laboratories – these are laboratories that analyze environmental (aqueous, solid and drinking water) samples for hire.

56 Industrial Analytical Laboratories – these are laboratories that are a part of an industry and analyze environmental samples on their own behalf.

242 Municipal Analytical Laboratories – these are laboratories owned by a municipality that generally do analysis of samples for the community's wastewater treatment facility.

9 Public Health/Public Water Utility Analytical Laboratories – these are generally county laboratories that support the public health department in that area and analyze primarily drinking water samples but may do some wastewater analyses.

### **Agency Contact Person**

ESS Section Chief, Camille Turcotte 608.266.0245

# STATEMENT OF SCOPE

## Department of Natural Resources

Rule No.: NR 149      SS-22-12

Relating to: Laboratory Certification and Registration

Rule Type: Permanent

### 1. Finding/nature of emergency (Emergency Rule only):

Not applicable.

### 2. Detailed description of the objective of the proposed rule:

Chapter NR 149, Wis. Admin. Code establishes requirements for laboratories participating in the laboratory certification and registration program. The rule was last updated in 2008 and there is a need to revise the rule to update it, provide clarity to regulations, and correct minor errors.

### 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

NR149 establishes a program for the registration and certification of laboratories that submit data to the Department under covered programs. The purpose of this proposed rule package is to amend NR 149, Wis. Admin. Code, to bring it up to date with federal regulations, address technological changes and to clarify the regulations. The rule currently contains sections on: the process for obtaining certification, on-site laboratory evaluations of registered/certified laboratories, and required quality systems. Proposed changes will ensure that each section of the rule is current and clear. Some examples of needed changes include: updating appendices, changing regulations to mirror Federal requirements, clarifying definitions, and updating applicable technologies.

### 4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Wisconsin Stat. s. 299.11 (7) authorizes the Department to prescribe by rule the registration and certification of laboratories. Wisconsin Stat. s. 299.11(4) authorizes the Department to require that data submitted to the Department under a "covered program" be generated in a laboratory that is registered or certified. Covered programs are defined in Wisconsin Stat. s. 299.11(d) and include solid waste, mining, wastewater, groundwater, drinking water, and hazardous substances. Wisconsin Stat. s. 299.11(7)(a) specifies that the Department shall establish the criteria that will be used to register and certify laboratories.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

It will take state employees approximately 300 hours to develop the rule and other resources to make the changes needed.

**6. List with description of all entities that may be affected by the proposed rule:**

74 Commercial Analytical Laboratories – these are laboratories that analyze environmental (aqueous, solid and drinking water) samples for hire.

56 Industrial Analytical Laboratories – these are laboratories that are a part of an industry and analyze environmental samples on their own behalf.

242 Municipal Analytical Laboratories – these are laboratories owned by a municipality that generally do analysis of samples for the community's wastewater treatment facility.

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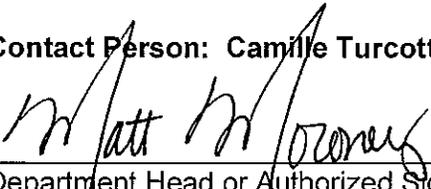
**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

This rule package will ensure state rules comply with federal regulations, are current and easily understood.

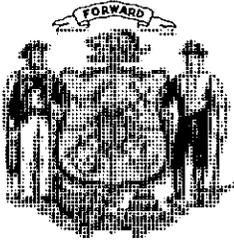
**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

These proposed rule changes will not have a significant economic impact on any entities or small businesses. Changes to the rule will be minor in scope to update requirements and provide clarity. The Department believes the economic impact would be no additional cost to the laboratories because the regulatory changes will be minor (insignificant impact on small businesses) and would not impact our fee structure.

Contact Person: **Camille Turcotte 608.266.0245**

  
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Department Head or Authorized Signature

9/10/12  
\_\_\_\_\_  
Date Submitted



**SCOTT WALKER**  
**OFFICE OF THE GOVERNOR**  
**STATE OF WISCONSIN**

P.O. Box 7863  
MADISON, WI 53707

October 2, 2012

Cathy Stepp  
Secretary  
Wisconsin Department of Natural Resources  
101 South Webster St.  
P.O. Box 7921  
Madison, WI 53707-7921

**RE: Statement of Scope for Modifications to Chapter NR 149 relating to the  
laboratory certification and registration**

Dear Secretary Stepp,

I hereby approve the Statement of Scope submitted on September 10, 2012, pursuant to Wisconsin Statutes § 227.135, in regards to modifications to Chapter NR 149 of the Wisconsin Administrative Code. You may send the Statement of Scope to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes §§ 227.135(3).

Sincerely,

A handwritten signature in black ink, appearing to be "Scott Walker".

Scott Walker  
Governor