

SUBJECT: FY 2015 Laboratory Certification and Registration Program Fee Adjustment

FOR: February 2014 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.

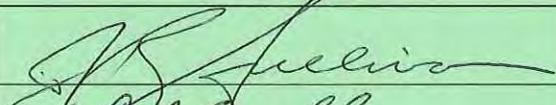
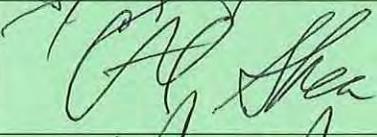
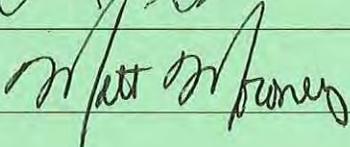
Under the guidance of the Certification Standards Review Council, a 9-member advisory board, LabCert has operated a lean and efficient program, operating well under its authorized spending authority while maintaining a high level of service to its customers (see background memo, graph on page 2) . Section 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 an increase in fee revenue over FY 2014. 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 \$76.50 more for accreditation. The average commercial lab will pay an additional \$337.50. The Certification Standards Review Council, representing a cross section of environmental laboratories, supports the proposed budget plan for FY15.

RECOMMENDATION: The Department recommends that the Natural Resources Board approve the Laboratory Certification and Registration program's FY 2015 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		1/21/2014
Al Shea, Administrator		1/22/14
Cathy Stepp, Secretary		1/28/14

CORRESPONDENCE/MEMORANDUM

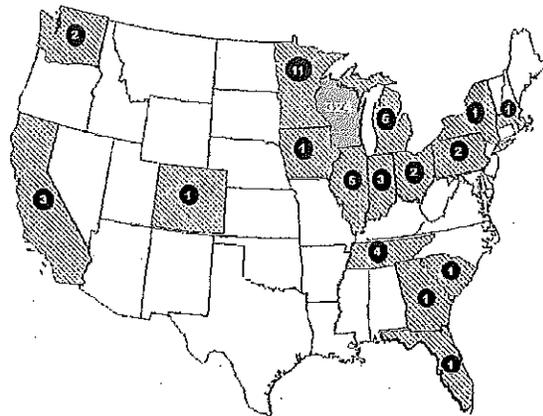
DATE: January 17, 2014
 TO: Natural Resources Board Members
 FROM: Cathy Stepp, Secretary
 SUBJECT: FY 2015 Laboratory Certification and Registration Fee Adjustment

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.

At the time this proposal was drafted, 369 laboratories located in Wisconsin and in 16 other states participate in the program. The Department currently certifies 45 out-of-state laboratories. Two of those laboratories are accredited completely through a reciprocal agreement with the state of South Carolina. The Department directly administers certification for the remainder of the laboratories.

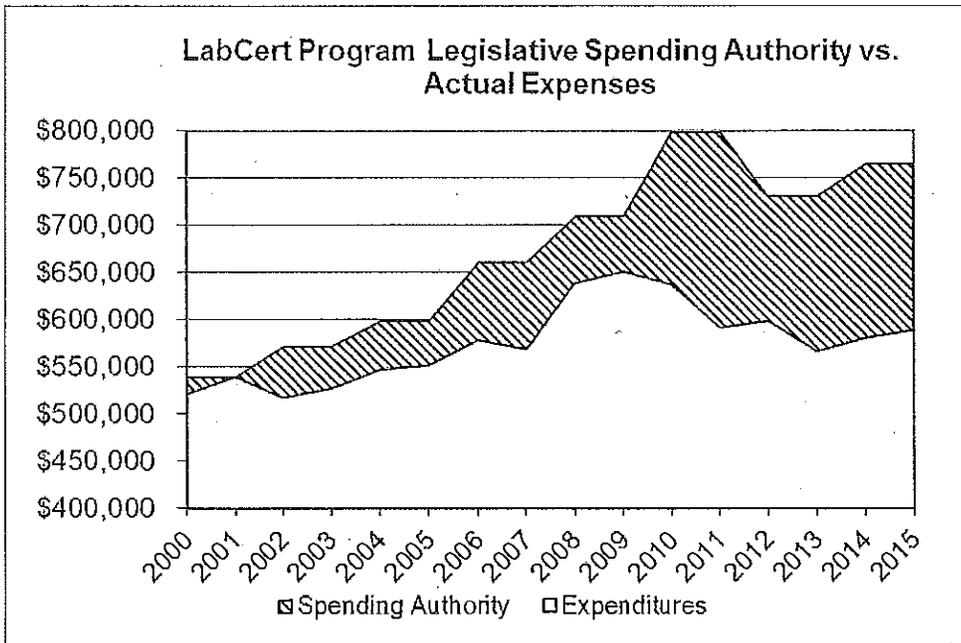


The Lab Certification and Registration program accredits 369 labs that perform testing of Wisconsin samples, including 45 labs in 16 states other than Wisconsin.

Proposed FY 2015 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 \$176,560 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 2015, the Department projects 369 laboratories will be accredited which will constitute a total of 9,318 RVUs. This represents a decrease of 110 (1.2%) RVUs. The FY 2015 cost per RVU is calculated by dividing the required fee revenue, (\$589,653) by the 9,318 RVUs available, which yields a cost of \$63.28 per RVU, rounded, for billing ease, to the nearest half dollar to \$63.50. 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 \$4.50 (7.6%) from the cost of an RVU in FY 2015.

Projected FY 2015 Expenditures

Salary, Fringe and Position Authority

The FY 2015 salary and fringe expenses total \$489,625 (80.3%) of the program’s budget. The FY 2015 projected cost for combined salary and fringe is \$16,048 (3.4%) greater than the corresponding costs in the FY 2014 budget. One program vacancy (from FY 2014) will be filled; in lieu of filling a second staff vacancy, which would result in a significantly greater fee increase, the program is budgeting for the increased utilization of contractors for FY 2015.

The program has position authority for 7.39 full-time equivalent (FTE) positions for FY 2015, however only 5.39 FTE positions will be funded. If unspent reserves are sufficient one of two unfunded permanent positions may be filled during FY 2015. The other vacancy will remain unfilled. The program will continue to utilize a contract auditor in addition to four FTE auditors to maintain compliance with necessary timelines for lab evaluations. \$20,000 has been budgeted to procure the services of an additional contractor to help meet on-site evaluation obligations until the program is better staffed. 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 367 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 \$85,515 (14.5%) of the program’s budget. This amount is \$8,210 (8.8%) less than that budgeted for the same functions in FY 2014. The decrease stems from continued program efficiencies, including electronic communications to minimize postage and printing costs and bundling audits to reduce travel costs.

For FY 2015, 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 2015 Budget

The program is submitting a budget of \$609,653 for FY 2015. This figure is \$29,251 (5.0%) more than the program’s FY 2014 budget. The increase in the proposed FY 2015 budget is largely the result of Legislature approved general wage increases of 1% for both FY 2014 and 2015 as well as an increase in the fringe benefit rate for the 2013-15 biennial budget.

Figure 1
Distribution of FY 2015 Budget Expenditures

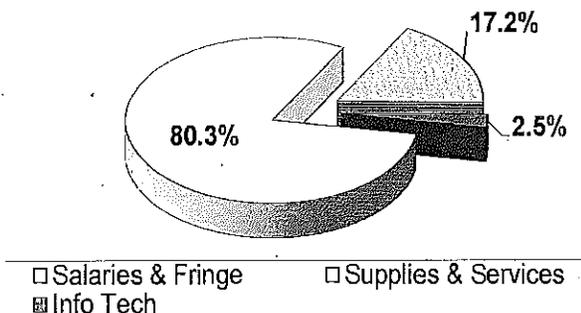


Table 1: FY 2015 budget detail

Expenses

BUDGET ITEM	FY 2015 BUDGET	
Salary and Fringe		
FTE Salary	\$	321,889
FTE Fringe	\$	167,736
Subtotal: Salary and Fringe	\$	489,625
Supplies and Services		
Contract Auditor	\$	44,000
Office Supplies, Services, and Equipment	\$	2,000
In-State Travel (Laboratory Audits)	\$	10,000
Out-of-State Travel (Laboratory Audits)	\$	20,000
Outreach	\$	750
Staff Training	\$	750
Postage	\$	2,200
Printing / Copying Services	\$	-
Telecommunications	\$	3,500
Indirect Costs (allocables)	\$	21,727
Subtotal: Supplies and Services	\$	104,927
Information and Technology		
Computers and Software	\$	2,600
BTS Support Charges	\$	12,500
Subtotal: Information and Technology	\$	15,100
TOTAL FY 2015 BUDGET EXPENSES	\$	609,653

Revenues

LabCert Fee Revenue	\$	591,693
LabCert base fee revenue: RVU=2560	\$	162,560
LabCert matrix fee revenue: RVU=2315	\$	147,003
LabCert technology fee revenue: RVU=4277	\$	271,590
LabCert application fee revenue: RVU= 166	\$	10,541
Out-of-State Travel Re-imbursements	\$	20,000
TOTAL FY 2015 BUDGET REVENUES	\$	611,693
PROJECTED SURPLUS / (SHORTFALL)	\$	2,040

Fee Basis (Cost/RVU)

REQUIRED FEE REVENUE	\$	589,653
TOTAL FY 2015 BUDGET EXPENSES	\$	609,653
Out-of-State Travel Re-imbursements	\$	(20,000)
TOTAL BUDGETED RVUS		9318
projected lab RVU		9152
projected application RVU		166
COST / RVU (Required Revenue/ Total RVU)	\$	63.50
comparison to FY 2014 (\$59.00/RVU)		7.6%
actual cost per RVU	\$	63.28

Fee Impact on Laboratories and Comparison to Other Accreditation Programs

The proposed 7.6% fee increase means that an average municipal wastewater treatment plant (WWTP) lab will pay \$76.50 more for accreditation. The average commercial lab will pay an additional \$337.50. 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

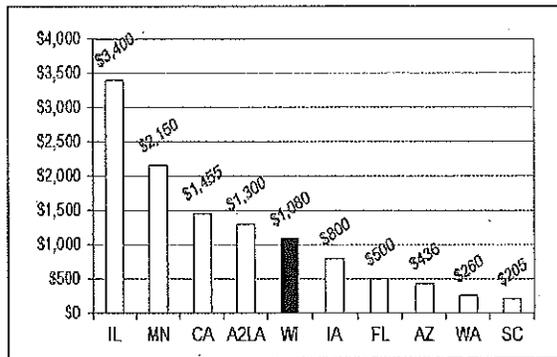


Figure 2: Fees for a typical municipal WWTP lab

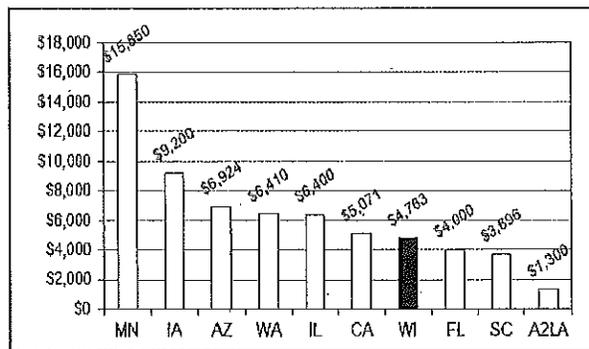


Figure 3: Fees for a typical commercial lab

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**

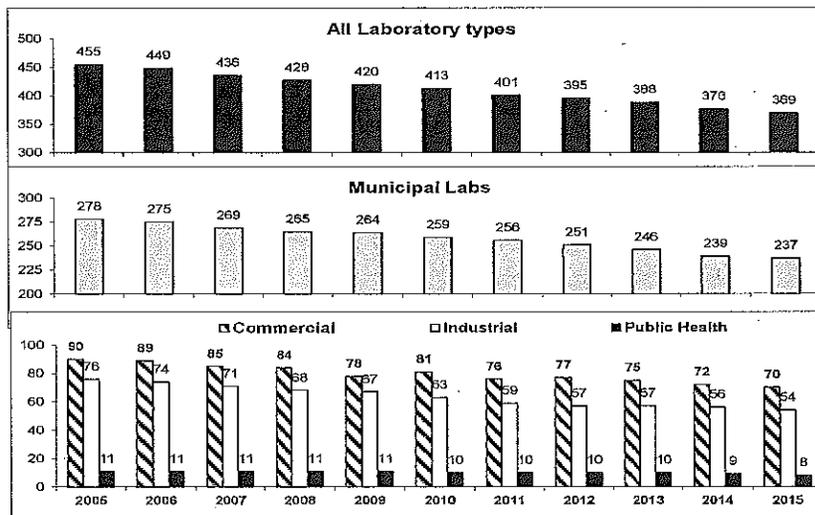
Variable	FY2015 (proposed)	Option 1	Option 2	Option 3	Full ch. 20 Authority ¹
Use Contractor (12 mos)	Yes	Yes	Yes	Yes	Yes
Fill current vacancy (Adv. Chemist)	Yes	Yes	Yes	Yes	Yes
Fill 2nd vacancy (Adv. Chemist)	NO	NO	Yes (1 mid yr)	Yes	Yes
Additional \$20K for Contractor	Yes	NO	Yes	NO	Yes
Total Expenses	\$ 609,653	\$ 586,890	\$ 659,254	\$ 688,856	\$ 708,856
Total Revenues	\$ 611,693	\$ 584,616	\$ 658,283	\$ 690,896	\$ 760,781
Projected Surplus / (Shortfall)	\$ 2,040	\$ (2,274)	\$ (971)	\$ 2,040	\$ 51,925
Cost/RVU	\$ 63.50	\$ 61.00	\$ 68.50	\$ 72.00	\$ 79.50
Avg Municipal WWTP fee (FY14: \$1,003)	\$ 1,080	\$ 1,037	\$ 1,165	\$ 1,224	\$ 1,352
Avg Commercial Lab fee (FY14: \$4,425)	\$ 4,763	\$ 4,575	\$ 5,138	\$ 5,400	\$ 5,963
Comparison to FY 2014 fees	7.6%	3.4%	16.1%	22.0%	34.7%

¹ 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 seven (7) fewer laboratories participating in the program at the onset of FY 2014 than there were at the onset of FY 2013, a decrease of 1.8%. The number of overall RVUs decreased 1.2% due to having fewer laboratories and from other laboratories dropping registration or certification for some of their parameters. 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 7, 2014. Six of the 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

FY 2015 Laboratory Certification and Registration Fee Adjustment

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. There are currently seven council members six of whom were in attendance for the budget presentation.

The Council reviewed the program’s FY 2015 budget and fee adjustment proposal on January 7, 2014 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 2015 fee adjustment proposal. Additionally, on January 7th, 2014 the statutorily created Certification Standards Review Council approved the proposed fee package and recommended approval by the Natural Resources Board.

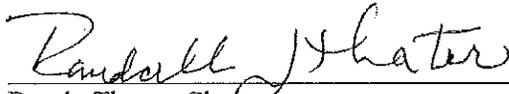
CERTIFICATION STANDARDS REVIEW COUNCIL RESOLUTION

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

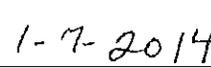
Whereas the Certification Standards Review Council is required to by s. NR 149.21 (b), Wis. Adm. Code, to review annual adjustments to this schedule of fees, and

Whereas the Certification Standards Review Council has reviewed the Laboratory Certification and Registration Program's proposed Fiscal Year 2015 fee adjustment, then

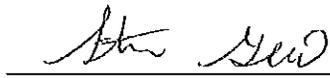
Therefore, be it resolved that the Certification Standards Review Council recommends the Natural Resources Board approve the Laboratory Certification and Registration Program's proposed Fiscal Year 2015 fee adjustment.



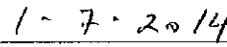
Randy Thater, Chair
Certification Standards Review Council



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 2015

Fiscal Effect
 State: No State Fiscal Effect
 Indeterminate

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

<input type="checkbox"/> Increase Existing Appropriation	<input checked="" type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs — May be possible to absorb within agency's budget. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Decrease Costs	

Local: No Local Government Costs
 Indeterminate

1. <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input checked="" type="checkbox"/> Towns <input checked="" type="checkbox"/> Villages <input checked="" type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input checked="" type="checkbox"/> Others <u>Sanitary Districts</u> <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Chapter 20 Appropriations 20.370 (3)(fj)
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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 \$609,653 for FY 2015. This figure represents an increase of \$29,251 (5.0%) from the expenses of \$580,402 budgeted for FY 2014 and remains well below the program's FY 2015 spending authority of \$765,200. The increase results largely from 1% wage increases in FY 2014 and FY 2015 as well as an increase to the budgeted fringe rate. In lieu of hiring another FTE, the program is budgeting to increase the amount allocated to purchase services from a contractor by \$20,000 keep up with the audit workload, Furthermore, the number of laboratories participating in the program has decreased by seven (7).

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 2015 is projected to be \$611,693, an increase of \$33,441 (5.8%) from FY 2014. After subtracting \$20,000 for projected out-of-state evaluation travel expenses the Department will adjust the cost per RVU to collect \$591,693 in fee revenue to fund the program in FY 2015. This figure is only \$35,441 (6.4 %) more than the amount of fee revenue required to meet the program's FY 2014 budget. This fee adjustment applies only to FY 2015. 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)

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 \$4.50 per RVU (7.6% increase). Fees for a wastewater treatment facility (WWTF) that analyzes BOD, TSS, phosphorus, and ammonia will be \$1,079.50 in FY 2015 compared to \$1,003 charged in FY 2014. Currently, there are 237 municipal wastewater treatment facility and 8 county public health laboratories that participate in the Laboratory Certification and Registration Program. There are a total of 4459 RVUs that are derived from the 245 municipal/county labs. At an increase of \$4.50/RVU, a total additional fiscal burden of \$20,065.50 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 2015

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			
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		33,441	-
SEG/SEG-S			-
Total State Revenues		\$	\$ -

Net Annualized Fiscal Impact

	State	Local
Net Change in Costs	\$ 0	\$ 20,065
Net Change in Revenues	\$ 33,441	\$ 0

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