

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

SUBJECT: FY 2019 Laboratory Certification and Registration Program Fee Adjustment

FOR: February 2018 Board meeting

TO BE PRESENTED BY: Steve Geis - Chief, Certification 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 0.6% decrease in expenses and fee revenue compared to FY 2018, as a result of a reduction in statutory spending authority. Despite a slight decrease in proposed operating expenses, a fee increase of 4.3% is being proposed, due to a reduction in the number of relative value units (RVU) and a slight reduction in the number of wastewater labs.

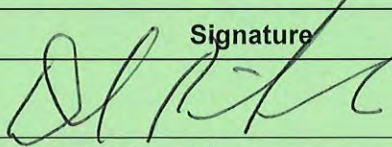
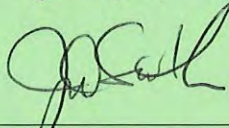

The proposed fee increase means that an average municipal lab will pay \$51 more for accreditation. The average commercial lab will pay an additional \$225. The Certification Standards Review Council, representing a cross section of environmental laboratories, supports the proposed budget plan for FY19.

RECOMMENDATION: The Department recommends that the Natural Resources Board approve the Laboratory Certification and Registration program's FY 2019 fee adjustment proposal.

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

- Background memo
- Fiscal Estimate

- Type name of attachment if applicable
- Type name of attachment if applicable

Approved by	Signature	Date
David Siebert - Director, Environmental Analysis & Sustainability		1/10/18
for Joe Liebau, Acting Administrator		01-19-18
Daniel L. Meyer, Secretary		3-6-18

DATE: January 22, 2018
TO: Natural Resources Board Members
FROM: Dan Meyer
SUBJECT: FY 2019 Laboratory Certification and Registration Fee Adjustment

Laboratory Certification and Registration Program Overview

Laboratory Certification and Registration is managed by the Certification Services Section within the Environmental Analysis & Sustainability Program. The program ensures the quality and defensibility of 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, 345 laboratories located in Wisconsin and in 13 other states participate in the program. The Department currently certifies 39 out-of-state laboratories.



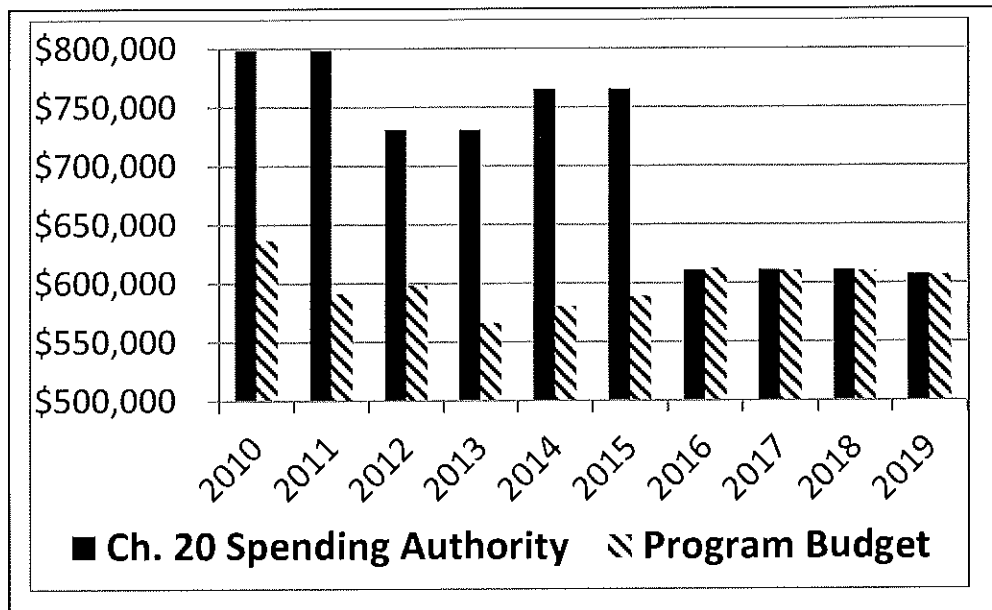
The Lab Certification and Registration program accredits 345 labs that perform testing of Wisconsin samples, including 39 labs in 13 states other than Wisconsin.

Proposed FY 2019 Revenues

Statutory and Administrative Code Authority

Statute s. 299.11(9) established authorized spending for Laboratory Certification. 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.





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 2019, the Department projects 345 laboratories will be accredited which will constitute a total of 8227 RVUs. This represents a decrease of 393 (4.6%) RVUs. The FY 2019 cost per RVU is calculated by dividing the required fee revenue, \$593,350 by the 8,227 RVUs available, which yields a cost of \$72.12 per RVU, rounded, for billing ease, to the nearest half dollar to \$72.00. 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 \$3.00 (4.3%) from the cost of an RVU in FY 2018.

Projected FY 2019 Expenditures

Salary, Fringe and Position Authority

The FY 2019 salary and fringe expenses total \$505,000 (83.2%) of the program’s budget. The FY 2019 projected cost for combined salary and fringe is \$14,900 (3.0%) more than the corresponding costs in the FY 2018 budget. The increase is due to two separate general wage increases slated to occur during fiscal 2019.

Lab Certification has position authority for 5.39 full-time equivalent (FTE) positions for FY 2019. The program will continue to utilize a contract auditor in addition to four FTE auditors to maintain compliance with necessary timelines for lab evaluations, reports and closures. It is anticipated that the program will continue to use a combination of permanent and LTE or 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 Certification Services Section Chief position. The remaining four FTE perform compliance evaluations of 345 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 Technology (IT)

Supplies and services expenditures account for \$90,500 (14.9%) of the program’s budget. This amount is \$6,200 (7.3%) more than that budgeted for the same functions in FY 2018. The increase stems largely from increasing the allotment for use of a contract auditor.

For FY 2019, the program is budgeting \$11,400 for information technology related expenses, which include software licenses and individual PC maintenance and network charges. The significant reduction in budgeting results from eliminating a one year cost for programming support and the need to purchase tablet PCs during fiscal 2018. IT costs represent 1.9% of the expense budget.

FY 2019 Budget

The program is submitting a budget of \$606,900 for FY 2019. This figure is \$3,000 (0.5%) less than the program’s FY 2018 budget.

Figure 1
Distribution of FY 2019 Budget Expenditures

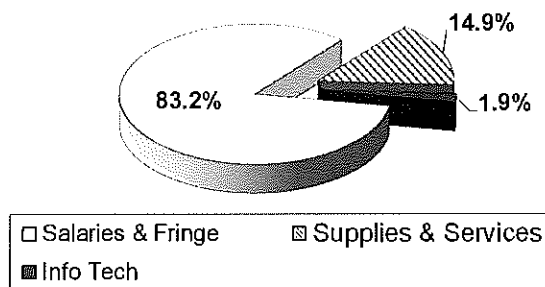


Table 1: FY 2019 budget detail

Expenses

BUDGET ITEM	FY 2019 BUDGET
Salary and Fringe	
FTE Salary	\$ 347,200
FTE Fringe	\$ 157,800
Subtotal: Salary and Fringe	\$ 505,000
Supplies and Services	
Contract Auditor	\$ 25,000
Office Supplies, Services, and Equipment	\$ 1,000
In-State Travel (Laboratory Audits)	\$ 10,000
Out-of-State Travel (Laboratory Audits)	\$ 13,500
Outreach	\$ 1,000
Staff Training	\$ 500
Postage	\$ 500
Printing / Copying Services	\$ 300
Indirect Costs (allocables)	\$ 34,700
Subtotal: Supplies and Services	\$ 90,500
Information and Technology	
Computers and Software (purchase)	\$ 5,000
IT Programmer (Oracle to dot.Net)	\$ -
BTS Support Charges	\$ 6,400
Subtotal: Information and Technology	\$ 11,400
TOTAL FY 2019 BUDGET EXPENSES	\$ 606,900

Revenues

LabCert Fee Revenue	\$ 592,300
LabCert base fee revenue: RVU=2420	\$ 174,200
LabCert matrix fee revenue: RVU=2090	\$ 150,500
LabCert technology fee revenue: RVU=3592	\$ 258,600
LabCert application fee revenue: RVU= 125	\$ 9,000
Out-of-State Travel Re-imburements	\$ 13,500
TOTAL FY 2019 BUDGET REVENUES	\$ 605,800
PROJECTED SURPLUS / (SHORTFALL)	\$ (1,100)

Fee Basis (Cost/RVU)

REQUIRED FEE REVENUE	\$ 593,400
TOTAL FY 2019 BUDGET EXPENSES	\$ 606,900
Out-of-State Travel Re-imburements	\$ (13,500)
TOTAL BUDGETED RVUS	8227
projected lab RVU	8102
projected application RVU	125
COST / RVU (Required Revenue/ Total RVU)	\$ 72.00
comparison to FY 2018 (\$69.00/RVU)	4.3%

Fee Impact on Laboratories and Comparison to Other Accreditation Programs

The proposed 4.3% fee increase means that an average municipal wastewater treatment plant (WWTP) lab will pay \$51 more for accreditation. The average commercial lab will pay an additional \$225. 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. Laboratories located in Wisconsin are not assessed an on-site evaluation fee by our program.

Comparison of Various Annual State Laboratory Certification Fees

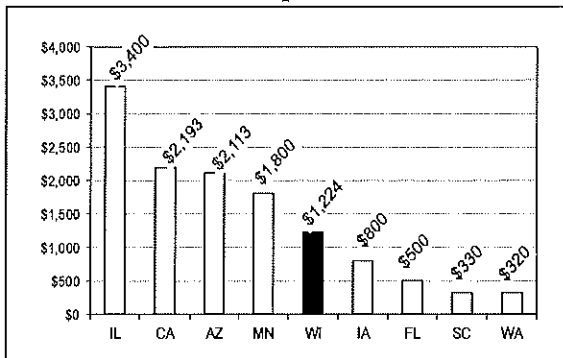


Figure 2: Fees for a typical municipal WWTP lab

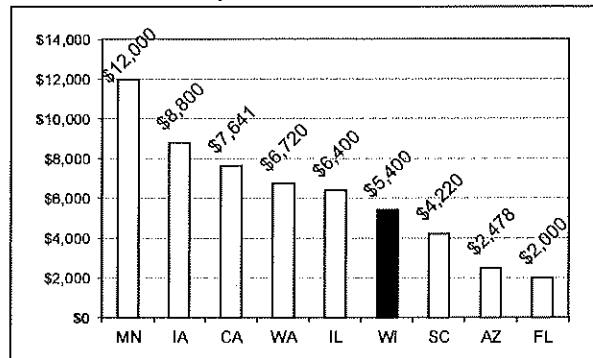
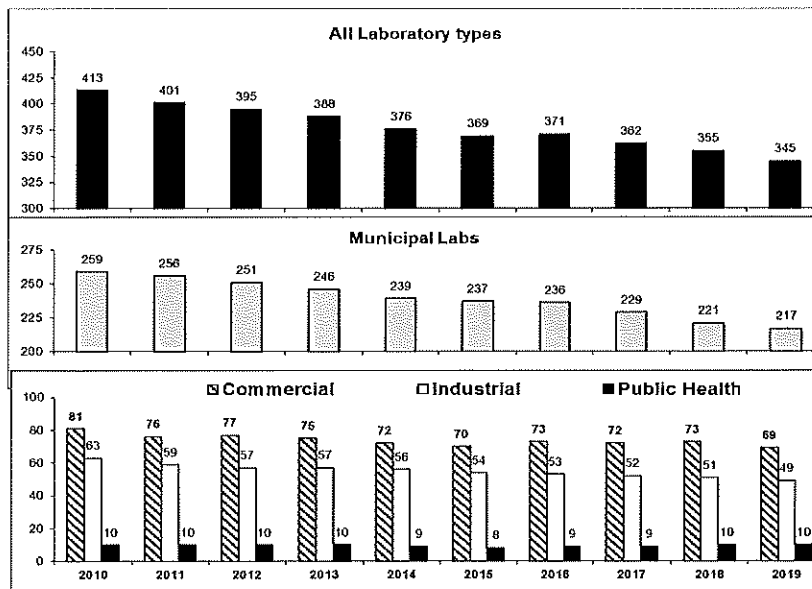


Figure 3: Fees for a typical commercial lab

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 ten (10) laboratories participating in the program at the onset of FY 2019. The number of overall RVUs decreased 4.6% 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 4.6%. Other adjustments to program operating results limited the fee increase to only 4.3%. 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 9, 2018. 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 345 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 of the 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 2019 budget and fee adjustment proposal on January 9, 2018 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 2019 fee adjustment proposal.

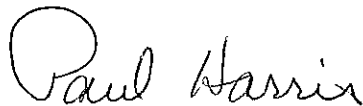
CERTIFICATION STANDARDS REVIEW COUNCIL RESOLUTION

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

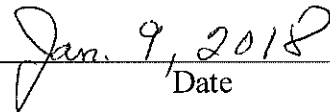
Whereas the Certification Standards Review Council is required to by s. NR 149.21 (b), Wis. Adm. Code, to review annual adjustments to this schedule of fees, and

Whereas the Certification Standards Review Council has reviewed the Laboratory Certification and Registration Program's proposed Fiscal Year 2019 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 2019 fee adjustment.

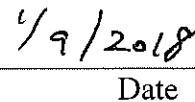


Paul Harris, Chair
Certification Standards Review Council


Date



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


Date

Fiscal Estimate — 2017 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 2019

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 \$606,900 for FY 2019. This figure represents a decrease of \$3,029 (-0.5%) from the expenses of \$609,929 budgeted for FY 2018 and remains below the program's FY 2019 estimated spending authority of \$607,300.

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 2019 is projected to be \$605,800, a decrease of \$2,480 (0.4%) from FY 2018. After subtracting \$13,500 for projected out-of-state evaluation travel expenses the Department will adjust the cost per RVU to collect \$592,300 in fee revenue to fund the program in FY 2019. This figure is \$1,100 (0.18%) less than the amount of fee revenue required to meet the program's FY 2019 budget. This fee adjustment applies only to FY 2019. 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 — 2017 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 \$3.00 per RVU (4.3% increase). Fees for a wastewater treatment facility (WWTF) that analyzes BOD, TSS, phosphorus, and ammonia will be \$ 1,224.00 in FY 2019 compared to \$1173.00 charged in FY 2018. Currently, there are 217 municipal wastewater treatment facility and 10 county public health laboratories that participate in the Laboratory Certification and Registration Program. There are a total of 4,257 RVUs that are derived from the 227 municipal/county labs. At an increase of \$3.00/RVU, a total additional fiscal burden of \$12,771 would be realized by these government facilities.

Fiscal Estimate Worksheet — 2017 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 2019

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			- 1,100
SEG/SEG-S			-
Total State Revenues		\$ -	\$ -

Net Annualized Fiscal Impact

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$ 0	\$ 12,271
Net Change in Revenues	\$ -1,100	\$ 0

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