

**BUREAU OF LABORATORIES:
LABORATORY ACCREDITATION PROGRAM FEES
3-YEAR REGULATORY FEE AND PROGRAM COST ANALYSIS REPORT
TO THE ENVIRONMENTAL QUALITY BOARD**

STATEMENT OF PURPOSE

The Environmental Laboratory Accreditation Act requires that accreditation fees cover the cost of the operation of the laboratory accreditation program. Chapter 252 requires that DEP review the adequacy of this fee every three years. The primary changes to the existing fees included in the proposal are: new fees for the complicated microbiology that require significant expertise, training, and oversight by program personnel and an overall fee increase for all laboratories based on increased program costs for implementation and operation of the program. Proposed fee increases were determined through an evaluation of the amount of time that DEP staff expend during the accreditation of a typical laboratory; the number of laboratories that seek accreditation, and the disparity in current program income to program costs. Small laboratories and publicly owned treatment facilities were given additional consideration. Under this proposed fee increase, the smaller Basic Non-Potable Water and Basic Drinking Water laboratories would experience a \$300 increase per year while medium to large accredited laboratories might experience an increase of between 20-30%. The intent is to cover the Department's current and projected costs to administer the program through FY 2019/2020. This proposal would result in an additional \$170,000 in fees and potentially impact 450 commercial laboratories.

Small and publicly owned laboratories include approximately 300 wastewater/drinking water/industrial laboratories and 90 medium sized state and National Environmental Laboratory Accreditation Program (NELAP) accredited laboratories. The 300 laboratories would experience approximately a 19% increase and the 80 medium sized state and NELAP accredited laboratories would experience an approximate 20-25% increase in fees. The large commercial facilities, including approximately 70 large commercial state and NELAP accredited laboratories, would experience up to a 30% increase.

BACKGROUND: The environmental laboratory accreditation fees were originally promulgated through final rulemaking on January 28, 2006 and then updated through a final rulemaking on April 10, 2010. The fees support the implementation of the Environmental Laboratory Accreditation Act (ELAA) through application and compliance activities. The 2010 fee schedule was finalized in response to the § 252.204(b) requirement to amend fees for laboratory accreditation to address any disparity between the program income generated by the accreditation fees and the program costs. The fee calculations were based on the workload analysis for managing staffing, and salary rates from 2009. When the fees were proposed in 2010, the total program costs were about \$1,500,000, with projections of \$1,600,000 through FY14/15.

The Laboratory Accreditation Program ("LAP") implements ELAA through the review of accreditation applications for a variety of public facilities and commercial and non-commercial environmental laboratories. This ranges from small water and wastewater treatment facilities that perform their own compliance monitoring to large commercial environmental laboratories that perform environmental testing activities for DEP-permitted facilities and other entities to demonstrate compliance with a permit, order, regulation, or statute. Accreditation certificates are issued on an annual basis and laboratories may request amendments to their accredited testing activities on an as-needed basis. The LAP performs on-site and off-site assessments of the applicant laboratories at least once every three years and on an as-needed or as-requested basis. The accreditation activities performed by the LAP are conducted in accordance with 25 Pa. Code Chapter 252.

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PROGRAM COST ANALYSIS:

Note: the fee collections values include revenue from civil penalties, accreditation fees, and out-of-state travel reimbursement.

Fiscal Year	FEE COLLECTIONS	PROGRAM COSTS
FY-2 (12-13)	\$1,631,009.42	\$1,539,844.84
FY-1 (13-14)	\$1,658,783.55	\$1,606,203.61
FY-0 (14-15)	\$1,519,882.97	\$1,585,868.40*
FY+1 (15-16)	\$1,550,000.00 (est)	\$1,675,044.00 (projected)
FY+2 (16-17)	\$1,550,000.00 (est)	\$1,708,545.00 (projected)
FY+3 (17-18)	\$1,800,000.00 (est)	\$1,742,716.00 (projected)

*Program Costs for FY 2014-2015 reflect a 6-month vacancy of a Chemist 2 laboratory accreditation officer.

TREND ANALYSIS: The current fee structure was established to cover the anticipated costs of the accreditation program through FY2013-2014. Based on the actual revenue, the LAP's costs are projected to continue to be covered through FY2015-2016. The actual revenue for the program has not been generated solely from the accreditation fees. The LAP has experience an increase in non-compliance from several commercial and non-commercial laboratories which generated some revenue from civil penalties that resulted in the LAP being able to cover its costs without requiring a regulatory fee increase. However, in the calendar year 2014, the LAP experienced a significant decrease in the number of NELAP laboratories seeking secondary accreditation. This resulted in approximately a \$200,000.00 decrease in actual accreditation fees versus anticipated accreditation fees for FY2014-2015. Secondary NELAP accreditations pay fees at the same rate as primary accreditations, however, the program incurs less expense for processing these applications and the actual accreditation activities undertaken by the LAP are less for secondary NELAP applicants. The loss of secondary NELAP applicants results in very little reduction in workload but a large reduction in revenue.

Without an adjustment to the fee schedule, the gap between the fees and program costs will continue to grow, as costs will increase and revenue will remain flat or reduce. Revenue from fees is expected to remain consistent with the amount from FY 2014-2015. Cost increases are due to personnel costs. It is also likely that additional costs will be incurred due to the increased enforcement actions that the program continues to experience with non-compliant laboratories. However, these costs should be offset by civil penalties. Efficiencies are being planned by developing an electronic application system to allow laboratories to submit applications via the web and thereby reduce the amount of manual data entry required by program staff. The program is also developing an electronic proficiency testing processing system that will reduce the amount of manual data entry and evaluation that the program staff undertake.

Review of expenses reveals that most of the costs are incurred for personnel. The cost of salary, benefits, and travel reimbursement make up the majority of the cost of the program.

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ADVISORY COMMITTEE REVIEW: The Department worked collaboratively with the Laboratory Accreditation Advisory Committee (LAAC) to develop a proposed amended fee schedule. LAAC was created by the Environmental Laboratory Accreditation Act of 2002 and provides technical advice to the Department for laboratory accreditation and other environmental laboratory issues. The Department first presented the proposed accreditation fees to the LAAC on December 11, 2014 and an amended fee schedule on June 24, 2015. The Department presented a summary of the accreditation costs compared to the anticipated revenue at the September 30 and December 2, 2015 LAAC meetings.

RECOMMENDATION AND COMMENT: It is recommended that fees be increased to cover the program costs. The Department, in collaboration with the LAAC, has been working to develop a proposed rulemaking to update fees and to amend other regulatory language included in Chapter 252.