

FEE REPORT FORM

Agency: Bureau of Laboratories
Department of Environmental Protection

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Bureau of Laboratories

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Fee Collections:	Prior Year 2007-2008 (FY)	Current Year 7/08-12/08 (Actual)	Current Year 1/09-6/09 (Anticipated)	Fiscal Year 2009/10 Projected	Fiscal Year 2010/11 Projected	Fiscal Year 2011/12 Projected
Current – Total	\$880,000	\$760,000	\$500,000			
Proposed— Total				\$1,300,000	\$1,300,000	\$1,600,000

FEE TITLE AND RATE:

Title: Environmental Laboratory Accreditation Fee Schedule

Current Fee Schedule:

The current fees established in 2006 are in accordance with the following schedule and must accompany an application for accreditation, renewal of accreditation, change of ownership, or addition of fields of accreditation. The fees are as follows:

CATEGORY	FEE
Application Fee--Initial Application	\$600
Application Fee—Renewal Application	\$500
Application Fee--Ownership Transfer	\$150
Application Fee--Addition Of Fields Of Accreditation	\$250
Basic Drinking Water Category (1 Method For Each Of The Following: Total Coliform Bacteria, Fecal Coliform Bacteria, <i>E-Coli</i> Bacteria, Heterotropic Bacteria, Nitrate, Nitrite, Fluoride, Cyanide)	\$600
Asbestos--Drinking Water	\$350
Microbiology--Drinking Water	\$450
Trace Metal Category--Drinking Water	\$450
Inorganic Nonmetal Category--Drinking Water	\$500
Trace Metal And Inorganic Nonmetal Category--Drinking Water	\$800
Volatile Organic Chemicals--Drinking Water	\$500
Extractable And Semivolatile Organic Chemicals--Drinking Water	\$750
Dioxin--Drinking Water	\$600
Radiochemical Category--Drinking Water	\$700
Basic Nonpotable Water Category (1 Method For Each Of The Following: Fecal	\$700

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CATEGORY	FEE
Coliform Bacteria, Bod, Cbod, Nitrate, Ammonia, Total Nitrogen, Total Kjeldahl Nitrogen, Nitrite, Phosphorus, And 1 Method For Each Type Of Residue)	
Asbestos--Nonpotable Water	\$350
Microbiology--Nonpotable Water	\$400
Trace Metal Category--Nonpotable Water	\$450
Inorganic Nonmetal Category--Nonpotable Water	\$550
Trace Metal And Inorganic Nonmetal Category--Nonpotable Water	\$900
Volatile Organic Chemicals--Nonpotable Water	\$500
Extractable And Semivolatile Organic Chemicals--Nonpotable Water	\$950
Dioxin--Nonpotable Water	\$600
Radiochemical Category--Nonpotable Water	\$600
Whole Effluent Toxicity Testing Category	\$600
Microbiology--Drinking Water & Nonpotable Water	\$750
Trace Metal Category--Drinking Water & Nonpotable Water	\$800
Inorganic Nonmetal Category--Drinking Water & Nonpotable Water	\$1,000
Trace Metal And Inorganic Nonmetal Category--Drinking Water & Nonpotable Water	\$1,550
Volatile Organic Chemicals--Drinking Water & Nonpotable Water	\$900
Extractable And Semivolatile Organic Chemicals--Drinking Water & Nonpotable Water	\$1,650
Dioxin--Drinking Water & Nonpotable Water	\$1,050
Radiochemical Category--Drinking Water & Nonpotable Water	\$1,050
Asbestos--Solid And Chemical Materials	\$350
Microbiology--Solid And Chemical Materials	\$450
Trace Metal Category--Solid And Chemical Materials	\$450
Inorganic Nonmetal Category--Solid And Chemical Materials	\$550
Volatile Organic Chemicals--Solid And Chemical Materials	\$550
Extractable And Semivolatile Organic Chemicals--Solid And Chemical Materials	\$1,200
Dioxin--Solid And Chemical Materials	\$600
Radiochemical Category--Solid And Chemical Materials	\$600

At least every three years, the department will recommend regulatory changes to the fees in this section to the environmental quality board to address any disparity between program income generated by the fees and program costs. The regulatory amendment will be based upon an evaluation of the accreditation program fees income and the department's costs of administering the accreditation program. An environmental laboratory owned or operated by a Commonwealth agency is exempt from this fee requirement, but shall apply for accreditation under this chapter. The fees are nonrefundable. In addition to the nonrefundable application fee, an out-of-State environmental laboratory shall reimburse the Department for the following costs associated with onsite assessments necessitated by accreditation:

- (1) Transportation costs, including airfare, mileage, tolls, car rental, public transportation and parking.
- (2) Meals and lodging.

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(3) Travel time for each assessor at a rate of \$50/hour.

Proposed Fee Schedule:

The proposed fees would be in accordance with the following schedule and must accompany an application for accreditation, renewal of accreditation, change of ownership and change in administrative information addition of fields of accreditation. The fees are as follows:

CATEGORY	FEE
Application Fee – Initial Application for State Accreditation	\$750
Application Fee – Renewal Application for State Accreditation	\$500
Application Fee – Ownership Transfer or Change in Administrative Information	\$150
Application Fee – Initial Application for NELAP/TNI Accreditation	\$2,500
Application Fee – Renewal Application for NELAP/TNI Accreditation	\$2,000
Application Fee – Addition of Field of Accreditation	\$250
Application Fee – Supplemental On-Site Assessment	\$500
 Basic Drinking Water Category – includes 1 method for each of the following: Total Coliform Bacteria, Fecal Coliform Bacteria, <i>E. coli</i> Bacteria, Heterotrophic Bacteria, Nitrate, Nitrite, Fluoride, Cyanide	\$650
 Basic Non-potable Water Category – includes 1 method for each of the following: Fecal Coliform Bacteria, BOD, CBOD, Nitrate, Ammonia, Total Nitrogen, Total Kjeldahl Nitrogen, Nitrite, Phosphorus, and 1 method for each type of residue including % Solids for land-applied biosolids	\$750
 Asbestos—first matrix	\$400
Microbiology—first matrix	\$500
Trace Metal Category—first matrix	\$550
Inorganic Non-metal Category—first matrix	\$600
Volatile Organic Chemicals —first matrix	\$650
Extractable and Semi-volatile Organic Chemicals—first matrix	\$1,500
Dioxin—first matrix	\$650
Radiochemical Category—first matrix	\$750
Whole Effluent Toxicity Testing—first matrix	\$700
 Asbestos—second matrix	\$350
Microbiology—second matrix	\$450
Trace Metal Category—second matrix	\$500
Inorganic Non-metal Category—second matrix	\$550
Volatile Organic Chemicals—second matrix	\$600
Extractable and Semi-volatile Organic Chemicals—second matrix	\$1,400
Dioxin—second matrix	\$600
Radiochemical Category—second matrix	\$700
 Asbestos—third matrix	\$300
Microbiology—third matrix	\$400
Trace Metal Category—third matrix	\$450
Inorganic Non-metal Category—third matrix	\$500
Volatile Organic Chemicals—third matrix	\$550
Extractable and Semi-volatile Organic Chemicals—third matrix	\$1,300
Dioxin—third matrix	\$550

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Radiochemical Category—third matrix

\$650

At least every 3 years, the Department will recommend regulatory changes to the fees in this section to the EQB to address any disparity between the program income generated by the fees and program costs. The regulatory amendment will be based upon an evaluation of the accreditation program fees income and the Department's costs of administering the accreditation program. An environmental laboratory owned or operated by a Commonwealth agency is exempt from this fee requirement, but shall apply for accreditation under this chapter. Fees are nonrefundable. In addition to the nonrefundable application fee, an out-of-State environmental laboratory shall reimburse the Department for the following costs associated with onsite assessments necessitated by accreditation:

- (1) Transportation costs, including airfare, mileage, tolls, car rental, public transportation and parking.
- (2) Meals and lodging.
- (3) Travel time for each assessor at a rate of \$50/hour.

Fee Objective:

The fees have been calculated to cover the reasonable costs to the Department to implement and administer the environmental laboratory accreditation program and for the processing of an application for a certificate of accreditation, including the issuance, renewal, modification or other action relating to the certificate as required by 27 Pa C.S. § 4104(6).

Fee Related Activities and Costs:

Examples of environmental laboratory accreditation activities supported by the fees associated with laboratory accreditation program:

1. Assessment of Applicant Laboratories—Includes performing on-site evaluations, writing assessment reports, reviewing corrective action reports submitted by the laboratory, and updating a laboratory's accreditation status resulting from the completed on-site evaluation. A laboratory on-site evaluation includes the evaluation of laboratory's facilities, equipment, methodologies, quality control practices, and personnel.
2. Application Review—Includes review of a laboratory's application for accreditation, evaluation of appropriate fee payment, updating a laboratory's scope of accreditation based on their application requests, and issuing a new certificate of accreditation. Review of a laboratory's application for accreditation includes the review and evaluation of laboratory supervisors for compliance with Chapter 252 requirements.
3. Review and Approval of Proficiency Testing (PT) Results—Includes review of a laboratory's current scope of accreditation, review of the laboratory's history of pass and fail rates in past PT studies, changes to a laboratory's accreditation status based on the laboratory's performance on PT studies, or lack thereof.
4. Provide Technical Assistance to Applicant Laboratories Required by 27 Pa C.S. § 4104 (7)—Includes responding to phone calls, e-mails, and other correspondence from applicant laboratories within approved timeframes. The Laboratory Accreditation staff also attend meetings and training sessions offered to applicant laboratories and interpret

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the State, National, and EPA rules and regulations that apply to applicant laboratories when guidance is requested.

5. Maintain Approval as a NELAP Accreditation Body—Includes review and approval by The NELAC Institute (TNI), maintenance of the Laboratory Accreditation Program's quality system, a requirement for biennial on-site assessments of NELAP accredited laboratories, a requirement for annual training of all Laboratory Accreditation Program staff, participation in TNI committees and attendance at the biannual face-to-face meetings.

Analysis:

Section 4104(6) of the Act of June 29, 2002 (P.L. 596, No. 90) (dealing with Environmental Laboratory Accreditation) (27 Pa C.S. §§ 4101 – 4113) authorizes the Department to “require a fee for the processing of an application, including the issuance, renewal, modification or other action relating to the certificate, in an amount sufficient to pay the department’s cost of implementing and administering the accreditation program.” The Department is required to set fees in an amount sufficient to cover the cost of establishing and maintaining a laboratory accreditation program. These fees are intended to reflect the costs of implementing and administering the environmental laboratory accreditation program to the environmental laboratories.

For the environmental laboratories required to maintain accreditation in accordance with the Chapter 252 regulation, the costs will vary depending upon the type of testing and analyses that the environmental laboratory chooses to perform. The annual application fees will range from \$900 to \$15,000. The Department believes that the increased accreditation fees will not result in prohibitive cost increases for any environmental laboratory.

The proposed rulemaking contains a fee structure that is responsive to the needs of small laboratories. Categories of testing are included for basic drinking water parameters and for basic wastewater parameters as a group. Additional tests were added to the basic wastewater parameter group in response to comments received by the Laboratory Accreditation Advisory Committee. These groupings include the tests usually performed by the smaller drinking water and wastewater facilities. The fees for the laboratories accredited in these categories increase by only \$50 per year and the majority of the accredited laboratories fall into these categories. The fees assessed to these smallest of environmental laboratories will increase from an annual fee of \$1200 to an annual fee of \$1250. The average fee for a medium environmental laboratory will increase from \$3,700 to \$4,900 and the increase for a large accredited environmental laboratory will increase from \$8,100 to \$10,600. A NELAP accreditation for any lab would be an additional \$2,000.

The calculated fees were rounded to the nearest \$50 increment for ease of calculation by the regulated laboratories. The reimbursement rate for travel time to an out-of-State environmental laboratory is based upon salary and benefit costs for an assessor and would be \$50 per hour for each assessor.

The estimated cost of the Laboratory Accreditation Program for the first full year, fiscal year 2011/2012, is \$ 1,580,000 and the projected revenue is \$ 1,600,000. Thus the projected amount collected in revenue covers the estimated cost of the program.

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Comment:

The Environmental Laboratory Accreditation Regulation sets forth the requirements that laboratories must meet in order to become accredited to perform testing for 12 environmental statutes. While completing the first round of laboratory assessments under the Chapter 252 regulation, effective January 28, 2006, the Laboratory Accreditation Program discovered various portions of the regulation that are unclear or where the rules are overly restrictive and cost prohibitive to the regulated community. These changes to the regulation will benefit the entire regulated community. The Department is proposing a simpler fee structure. Additionally, implementation of the NELAP accreditation program incurs added costs over those associated with the accreditation program outlined in Chapter 252, but the current fee structure does not require NELAP applicant laboratories to pay additional fees. The proposed fee structure includes an additional fee for laboratories requesting NELAP accreditation.

At least every three years, the Department will recommend regulatory changes to the fees in this section to the environmental quality board to address any disparity between program income generated by the fees and program costs. The regulatory amendment will be based upon an evaluation of the accreditation program fees income and the Department's costs of administering the accreditation program.

The Laboratory Accreditation Advisory Committee (LAAC) provided technical assistance in development of the draft regulations. The LAAC held meetings on July 9, 2008, September 29, 2008, and December 11, 2008 to review the Department's proposed drafts of the Chapter 252 regulations. The LAAC provided invaluable advice and insight to the Department during these meetings. The Department considered all and agreed to the majority of the recommendations made by the LAAC.

The LAAC reviewed the proposed rulemaking on December 11, 2008, and unanimously supported moving the proposed rulemaking forward to the Board for consideration.