



MICHIGAN

OFFICE OF THE AUDITOR GENERAL

AUDIT REPORT



THOMAS H. MCTAVISH, C.P.A.
AUDITOR GENERAL

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– Article IV, Section 53 of the Michigan Constitution

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Michigan
Office of the Auditor General
REPORT SUMMARY

Performance Audit

Report Number:
761-0143-11

Fee Adequacy Within the Air Quality Division

Department of Environmental Quality

Released:
October 2011

Title V of the Clean Air Act established a comprehensive Renewable Operating Permit (ROP) Program that all states were required to implement. Title V of the Clean Air Act requires the ROP Program to collect, in the aggregate, an amount not less than \$25 per ton of each regulated pollutant or such other amount determined to adequately reflect the reasonable costs of the ROP Program. Section 324.5522(3) of the Michigan Compiled Laws states that the Auditor General shall conduct a biennial audit of the federally mandated operating permit program required in Title V of the Clean Air Act.

Background:

Act 451, P.A. 1994 (specifically, Section 324.5522(2) of the *Michigan Compiled Laws*), established the State's ROP Program fee schedule. Act 75, P.A. 2007, effective October 1, 2007, extended the fee schedule presented within Section 324.5522(2) of the *Michigan Compiled Laws* until October 1, 2011.

Audit Objective:

To assess the sufficiency of the statutory fees for the ROP Program to meet the minimum requirements of the Clean Air Act.

These minimum requirements specify that the owner/operator of all sources subject to permit shall pay fees sufficient to cover all reasonable direct and indirect costs required to administer the permit program; that adequate personnel and funding shall exist to administer the program; that the State Legislature must establish the fee amount; and that permit applications shall be processed timely.

Audit Conclusion:

We concluded that the statutory fees for the ROP Program were not sufficient to meet the minimum requirements of the Clean Air Act. However, the Department of Environmental Quality (DEQ) carried forward fees from prior years to sufficiently cover expenditures. Section 324.5521(2) of the *Michigan Compiled Laws* allows fees from the ROP Program to carry forward to subsequent years and not lapse to the State General Fund. We noted two reportable conditions (Findings 1 and 2).

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Reportable Conditions:

DEQ had not established a fee system for the ROP Program to generate sufficient revenues to meet the legal requirements of Title 40, Part 70, section 9 of the *Code of Federal Regulations (CFR)* and the Clean Air Act for fiscal years 2008-09, 2009-10, and 2010-11 (through March 31, 2011). Also, fees charged to facilities are not projected to generate sufficient revenues to cover ROP Program

costs for fiscal year 2010-11. The ROP Program relied on its fund balance to cover excess expenditures for fiscal years 2008-09 and 2009-10 and planned to do the same for fiscal year 2010-11. (Finding 1)

DEQ did not complete annual inspections or process permit applications within the appropriate time frames as required by federal regulation 40 *CFR* 70.9 and the Clean Air Act. (Finding 2)

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Agency Response:

Our audit report contains 2 findings and 2 corresponding recommendations. DEQ's preliminary response indicates that it agrees with the recommendations.

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A copy of the full report can be obtained by calling 517.334.8050 or by visiting our Web site at: <http://audgen.michigan.gov>



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Thomas H. McTavish, C.P.A.
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THOMAS H. MCTAVISH, C.P.A.
AUDITOR GENERAL

October 12, 2011

Mr. Dan Wyant, Director
Department of Environmental Quality
Constitution Hall
Lansing, Michigan

Dear Mr. Wyant:

This is our report on the performance audit of Fee Adequacy Within the Air Quality Division, Department of Environmental Quality.

This report is issued pursuant to Section 324.5522(3) of the *Michigan Compiled Laws*, which states that the Auditor General shall conduct a biennial audit of the federally mandated operating permit program required in Title V of the Clean Air Act. The audit shall include the Auditor General's recommendation regarding the sufficiency of the statutory fees to meet the minimum requirements of the Clean Air Act.

This report contains our report summary; description of program; audit objective, scope, and methodology and agency responses and prior audit follow-up; comment, findings, recommendations, and agency preliminary responses; three exhibits, presented as supplemental information; and a glossary of acronyms and terms.

The agency preliminary responses were taken from the agency's responses subsequent to our audit fieldwork. The *Michigan Compiled Laws* and administrative procedures require that the audited agency develop a plan to address the audit recommendations and submit it within 60 days after release of the audit report to the Office of Internal Audit Services, State Budget Office. Within 30 days of receipt, the Office of Internal Audit Services is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

We appreciate the courtesy and cooperation extended to us during this audit.

A handwritten signature in black ink that reads "Michigan Auditor General".

AUDITOR GENERAL

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Description of Program

In 1990, the U.S. Congress amended the Clean Air Act to include several new approaches to protecting air quality. Title V of the Clean Air Act established a comprehensive Renewable Operating Permit (ROP) Program that all states were required to implement. This Program required facilities to obtain an ROP that consolidated all applicable requirements into a facility-based permit that must be renewed every five years.

The ROP Program initiated three significant changes to the existing permitting program:

1. The ROP Program consolidated the requirements that apply to facilities that emit air contaminants. The ROP Program was not designed to impose any new emissions limitations or standards but rather to bring the standards together into a single document.
2. The ROP Program shifted the burden of proof away from state and local regulatory agencies and placed it upon the individual facilities that emit air pollutant emissions. Facilities are required to annually report to the Department of Environmental Quality's Air Quality Division their actual levels of emissions, which are used to calculate the fees paid by the facilities for the ROP Program. In addition, the facilities must certify that all the monitoring and associated recordkeeping requirements of their permits have been met and certify whether the facilities were in compliance with all the terms and conditions in the ROP for the previous year.
3. The ROP Program established an annual fee system designed to ensure that the state and local regulatory agencies will have the resources necessary to develop and administer the ROP Program.

Only facilities that meet the definition of a major source* of emissions or are in specific categories designated by the U.S. Environmental Protection Agency must obtain an ROP. Facilities subject to the ROP Program include:

1. Facilities subject to the federal acid rain program.

* See glossary at end of report for definition.

2. Any stationary facility in a category as designated by the U.S. Environmental Protection Agency in Title 40, Part 70 of the *Code of Federal Regulations** (CFR). These are small sources subject to maximum achievable control technologies* (MACT), a level of control that takes into consideration the emission control currently being achieved by the best-performing similar sources through various control methods, such as clean processes, control devices, and work practices.
3. Businesses or institutions that have a potential to emit* (PTE):
 - a. Greater than 100 tons per year of any pollutant regulated by the Clean Air Act (e.g., Consumer's Energy, Detroit Edison, and Michigan State University), or
 - b. Greater than 10 tons per year of any hazardous air pollutant (HAP) or 25 tons per year of a combination of HAPs.

Factors determining whether a facility is a major source are based on the facility's PTE, adjacent and contiguous properties, common control of a facility, and standard industrial classification codes*.

Fees are assessed to facilities based on the following categories (see Exhibit 2):

Category I

Facilities that have a PTE that exceeds 100 tons per year for non-HAPs or are subject to the federal acid rain program. This category includes municipal electric generating facilities.

Category II

Facilities that exceed 10 tons per year of any HAP or 25 tons per year of a combination of HAPs.

Category III

Area facilities that have a PTE below the emission threshold for major sources (e.g., dry cleaners).

* See glossary at end of report for definition.

Emission fees apply to a maximum of 4,000 tons of pollutants per facility or 1,000 tons per pollutant, not including carbon monoxide, if the combined total for the facility is less than 4,000 tons.

For fiscal years 2008-09 and 2009-10, the ROP Program had revenues of \$9.81 million and \$9.58 million, respectively, and expenditures of \$10.01 million and \$10.02 million, respectively (see Exhibit 3). The number of full-time equated employees decreased 29% from 83 as of September 30, 2009 to 59 as of January 21, 2011. The decrease of full-time equated employees resulted in a 36% decrease in payroll costs.

Audit Objective, Scope, and Methodology and Agency Responses and Prior Audit Follow-Up

Audit Objective

The objective of our performance audit* of Fee Adequacy Within the Air Quality Division (AQD), Department of Environmental Quality (DEQ), was to assess the sufficiency of the statutory fees for the Renewable Operating Permit (ROP) Program to meet the minimum requirements of the Clean Air Act.

These minimum requirements specify that the owner/operator of all sources subject to permit shall pay fees sufficient to cover all reasonable direct and indirect costs required to administer the permit program; that adequate personnel and funding shall exist to administer the program; that the State Legislature must establish the fee amount; and that permit applications shall be processed timely.

Audit Scope

Our audit scope was to examine the program and other records related to the Air Quality Division and the Renewable Operating Permit Program. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Our audit procedures, conducted from April through June 2011, included examination of records and activities primarily for the period October 1, 2008 through March 31, 2011.

Audit Methodology

We conducted a preliminary review to gain an understanding of ROP Program activities. This included interviewing AQD staff and reviewing applicable State statutes, administrative rules, policies and procedures, federal regulations, and ROP Program records. Also, we reviewed AQD financial records, including cost projections, annual reports, and program fees charged by neighboring states.

* See glossary at end of report for definition

To accomplish our objective, we interviewed ROP Program personnel; reviewed financial records; analyzed AQD projections of ROP Program staffing needs, revenues, and expenditures for fiscal years 2008-09 and 2009-10; and examined AQD's last legislative request to increase statutory fees. We also interviewed AQD staff and reviewed AQD's process for allocating direct and indirect costs to the ROP Program.

Agency Responses and Prior Audit Follow-Up

Our audit report contains 2 findings and 2 corresponding recommendations. DEQ's preliminary response indicates that it agrees with the recommendations.

The agency preliminary response that follows each recommendation in our report was taken from the agency's written comments and oral discussion subsequent to our audit fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and the State of Michigan Financial Management Guide (Part VII, Chapter 4, Section 100) require DEQ to develop a formal response to our audit findings and recommendations within 60 days after release of the audit report to the Office of the Internal Audit Services, State Budget Office. Within 30 days of receipt, the Office of Internal Audit Services will review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

We released our prior performance audit of Fee Adequacy Within the Air Quality Division, Department of Environmental Quality (761-0143-07), in October 2007. Within the scope of this audit, we followed up the 1 prior audit recommendation, which was rewritten for inclusion in Finding 1 of this audit report.

COMMENT, FINDINGS, RECOMMENDATIONS,
AND AGENCY PRELIMINARY RESPONSES

FEE ADEQUACY

COMMENT

Background: Section 502(b)(3)(A) of Title V of the Clean Air Act directs the State permit program to require owners or operators who obtain a permit under this title to pay an annual fee, or the equivalent, sufficient to cover all reasonable direct and indirect costs required to develop and administer the permit program.

Act 451, P.A. 1994, as amended (Sections 324.5501 - 324.5542 of the *Michigan Compiled Laws*), established the State's Renewable Operating Permit (ROP) Program. Section 324.5522(1) of the *Michigan Compiled Laws* states that the Department of Environmental Quality (DEQ) may levy and collect an annual air quality fee from the owner or operator of each fee-subject facility in the State and indicates that the Legislature intends that the fees required under this section meet the minimum requirements of the Clean Air Act. The minimum requirements specify that the owner/operator of all sources subject to permit shall pay fees sufficient to cover all reasonable direct and indirect costs required to administer the permit program; that adequate personnel and funding shall exist to administer the program; that the State Legislature must establish the fee amount; and that permit applications shall be processed timely.

Act 451, P.A. 1994 (Section 324.5522(2) of the *Michigan Compiled Laws*), established the State's ROP Program fee schedule. The Legislature imposes an end date to each fee reauthorization. Act 75, P.A. 2007, which became effective September 30, 2007, extended the fee schedule at that time presented within Section 324.5522(2) of the *Michigan Compiled Laws* until October 1, 2011.

Funding is established through a fee schedule to fund required activities under the federal Clean Air Act. This commitment was established as a prerequisite of the ROP Program being approved by the U.S. Environmental Protection Agency (EPA) to the State of Michigan. DEQ is responsible for collecting the authorized fees in accordance with Section 324.5522 of *Michigan Compiled Laws* and implementing the ROP Program in accordance with the Clean Air Act.

This audit is mandated by Section 324.5522(3) of the *Michigan Compiled Laws*, which requires that the Auditor General conduct a biennial audit of the federally mandated

operating permit program required by Title V of the Clean Air Act, including a recommendation regarding the sufficiency of the fees to meet the minimum requirements of the Clean Air Act.

In 1990, the United States Congress added Title V to the Clean Air Act requiring the ROP Program to collect, in the aggregate, an amount not less than \$25 per ton of each regulated pollutant adjusted annually based on the consumer price index for the most recent year, or such other amount determined to adequately reflect the reasonable costs of the ROP Program. Title V of the Clean Air Act limits the billable tons to 4,000 per year of any regulated pollutant per facility. In Michigan, ROP Program fees can be established only through legislation. Michigan's Legislature promulgated a flat fee-per-facility component and placed a cap on the billable regulated pollutants of 4,000 tons per facility (see Exhibit 2).

Audit Objective: To assess the sufficiency of the statutory fees for the ROP Program to meet the minimum requirements of the Clean Air Act.

Audit Conclusion: We concluded that the statutory fees for the ROP Program were not sufficient to meet the minimum requirements of the Clean Air Act. However, DEQ carried forward fees from prior years to sufficiently cover expenditures. Section 324.5521(2) of the *Michigan Compiled Laws* allows fees from the ROP Program to carry forward to subsequent years and not lapse to the State General Fund. We noted two reportable conditions* related to ROP Program fees and costs and facility inspections and permit processing (Findings 1 and 2).

FINDING

1. ROP Program Fees and Costs

DEQ had not established a fee system for the ROP Program to generate sufficient revenues to meet the legal requirements of Title 40, Part 70, section 9 of the *Code of Federal Regulations (CFR)* and the Clean Air Act for fiscal years 2008-09, 2009-10, and 2010-11 (through March 31, 2011). Also, fees charged to facilities are not projected to generate sufficient revenues to cover ROP Program costs for fiscal year 2010-11. The ROP Program relied on its fund balance to cover excess expenditures for fiscal years 2008-09 and 2009-10 and planned to do the same for fiscal year 2010-11.

* See glossary at end of report for definition

Title V of the Clean Air Act requires states to implement a fee system that provides states with the resources necessary to develop and administer the ROP Program. Federal regulation 40 *CFR* 70.9 requires states to establish a fee schedule that results in the collection and retention of revenues sufficient to cover ROP Program costs. In addition, the EPA stated in its March 2011 letter to DEQ (see Exhibit 1) that it is concerned that DEQ collects less than the presumptive minimum allowed by federal regulation 40 *CFR* 70.9(b)(2) and that DEQ does not demonstrate that the fees collected are sufficient to cover ROP Program costs as required. Section 324.5522 of the *Michigan Compiled Laws* contains the State's ROP fee schedule (see Exhibit 2). ROP Program fees generated 97.9% and 97.5% of the ROP Program revenues for fiscal years 2008-09 and 2009-10, respectively.

The Legislature must approve any increases to ROP Program fees. The Air Quality Division (AQD) submitted an ROP Program fee increase proposal to the State Legislature in January 2011. Legislators last amended the ROP Program fee schedule in 2001. The fee schedule in Section 324.5522 of the *Michigan Compiled Laws* expires as of October 1, 2011. As of September 30, 2011, the existing air emissions fee schedule will have been in place for 10 years with no adjustments for increases in ROP Program costs.

Our review of AQD's ROP Program fees, revenues, expenditures, and projections disclosed:

- a. ROP Program expenditures exceeded revenues by \$201,000 during fiscal year 2008-09 and by \$445,000 during fiscal year 2009-10 (see Exhibit 3). As allowed by the ROP fee legislation, AQD used the ROP Program's fund balance to cover the excess expenditures.
- b. Based on the level of services provided during fiscal year 2010-11, ROP Program fees and other funding methods are not projected to generate sufficient revenues to cover costs even if the currently requested increase is approved by the State Legislature for fiscal year 2011-12. AQD estimates that expenditures will exceed revenues by \$723,700 during fiscal year 2010-11.

We noted similar situations in our prior audit. DEQ submitted previous requests to the Legislature for an increase in emission fees; however, the Legislature had not approved an increase in emission fees.

RECOMMENDATION

We recommend that DEQ establish a fee system for the ROP Program to generate sufficient revenues to cover the cost of the ROP Program as required by federal regulation 40 *CFR* 70.9 and the Clean Air Act.

AGENCY PRELIMINARY RESPONSE

DEQ agrees with the recommendation. DEQ concurs that a fee system must be established to generate sufficient funds to cover the cost of the ROP Program. However, as noted in the audit analysis, the Legislature must approve any increases to ROP Program fees. The Legislature last amended the ROP Program fee schedule in 2001. DEQ submitted an ROP Program fee increase proposal to the State Legislature in January 2011. House Bill 4915 was introduced on September 8, 2011 and was passed by the House of Representatives on September 22, 2011. DEQ informed us that it continues to work with the Legislature to establish a fee system for the ROP Program to generate sufficient revenues to cover the cost of the ROP Program as required by federal regulation 40 *CFR* 70.9 and the Clean Air Act.

FINDING

2. Facility Inspections and Permit Processing

DEQ did not complete annual inspections or process permit applications within the appropriate time frames as required by federal regulation 40 *CFR* 70.9 and the Clean Air Act.

In an effort to control costs, AQD eliminated 24 staff positions between fiscal year 2008-09 and fiscal year 2010-11. As a result of the reduction in staff, AQD was not able to complete annual inspections or process permits timely as required by federal regulation 40 *CFR* 70 and the Clean Air Act for fiscal years 2008-09, 2009-10, and 2010-11 (through March 31, 2011). Our review disclosed:

- a. AQD notified the EPA that, for fiscal year 2010-11, it reduced the number of annual inspections of facilities from the 50% required by federal regulation 40 *CFR* 70 to 33%. DEQ indicated that the reduction in inspections is due to a reduction in revenues and staffing and an increased cost of implementing the ROP Program.

- b. AQD did not process initial applications for permits or permit renewal applications within 18 months as required by federal regulation 40 *CFR* 70. We noted:
- (1) In fiscal year 2008-09, for 4 (44%) of 9 initial applications received, AQD processed the applications between 6 and 64 months late. For 30 (49%) of 61 permit renewal applications received, AQD processed the applications between 1 and 51 months late.
 - (2) In fiscal year 2009-10, for 4 (57%) of 7 initial applications received, AQD processed the applications between 7 and 61 months late. For 23 (35%) of 66 permit renewal applications received, AQD processed the applications between 1 and 53 months late.
 - (3) In fiscal year 2010-11 (through March 31, 2011), for 8 (31%) of 26 renewal applications received, AQD processed the applications between 2 and 20 months late.
- c. In fiscal year 2009-10, AQD did not process 53 of the 65 ROP modification* applications that facilities submitted.

Federal regulation 40 *CFR* 70 requires initial applications, renewals, and modifications to be completed on a timely basis. Specifically, AQD has 18 months from the date of receipt to process an initial application or renewal application and 90 days to 9 months to process modification applications.

DEQ informed us that it has limited its activities related to the ROP Program in an effort to control costs. DEQ also informed us that, if the EPA finds DEQ deficient in its compliance with federal regulation 40 *CFR* 70 and the requirements of the Clean Air Act, the EPA may issue DEQ an informal warning or publish a formal Notice of Deficiency in the Federal Register and rescind Michigan's ROP Program approval. In addition, DEQ informed us that, if a Notice of Deficiency is published, additional ramifications to Michigan could include the withholding of federal highway funds in areas not meeting the National Ambient Air Quality Standards until the deficiency is rectified. Further, DEQ informed us that, if Michigan's

* See glossary at end of report for definition.

ROP Program approval is rescinded, the EPA would implement the ROP Program at the federal level, including assessing and collecting related fees. Fees collected by the EPA would be established using the EPA's cost basis rather than Michigan's formula with caps for the largest facilities, likely resulting in a higher fee structure.

RECOMMENDATION

We recommend that DEQ complete annual inspections and process permit applications within the appropriate time frames as required by federal regulation 40 *CFR* 70.9 and the Clean Air Act.

AGENCY PRELIMINARY RESPONSE

DEQ agrees with the recommendation. DEQ concurs that annual inspections and permit actions should be completed within legal deadlines when adequate program funding is obtained. However, as the audit conclusion states, statutory fees for the ROP Program were not sufficient to meet the minimum requirements of the Clean Air Act. As noted in the finding, DEQ has limited its activities related to the ROP Program in an effort to control costs. DEQ informed us that, until the Legislature authorizes adequate fee revenue, it does not have the resources necessary to adequately implement the ROP Program. However, DEQ also informed us that it continues to strive to improve efficiencies in the ROP process to the maximum extent possible. In addition, DEQ informed us that, when adequate revenue is provided, DEQ will perform required inspections and target completion of all ROP actions within the legal deadlines.

SUPPLEMENTAL INFORMATION

FEE ADEQUACY WITHIN THE AIR QUALITY DIVISION

Department of Environmental Quality

Letter From EPA to DEQ



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 15 2011

REPLY TO THE ATTENTION OF:

Dan Wyant
Director
Michigan Department of Environmental Quality
P.O. Box 30473
Lansing, Michigan 48909

Dear Mr. Wyant:

The U.S. Environmental Protection Agency is reviewing the Michigan Department of Environmental Quality's (MDEQ's) updated Clean Air Act Part 70 Operating Permit Program submittal dated November 9, 2010. While our review is ongoing, we have identified several aspects of Michigan's Renewable Operating Permit (ROP) Program fee demonstration that warrant your attention.

Section 502(b) of the Clean Air Act and 40 C.F.R. § 70.9 require that a permitting authority collect fees from subject sources that are sufficient to cover Title V program expenses, and that are used solely to cover the costs of the Title V program. Based on our review to date, we are concerned that:

- MDEQ collects less than the presumptive minimum allowed by 40 C.F.R. 70.9(b)(2), and does not provide a demonstration that the fees collected are sufficient to cover ROP Program costs.
- The current fee authority expires September 30, 2011, and there is no provision to extend or replace it.
- MDEQ may be funding overhead costs using ROP fees beyond that which can be reasonably attributed to the ROP Program.
- MDEQ is not fully implementing the ROP program due to decreases in funding and staffing.

Until Michigan can adequately address these concerns, EPA cannot approve MDEQ's revised ROP Program, and must undertake notice and comment rulemaking action to disapprove the submittal. Further, EPA will initiate a Notice of Program Deficiency to address the inadequacy of the ROP fee structure.

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FEE ADEQUACY WITHIN THE AIR QUALITY DIVISION
Department of Environmental Quality
Letter From EPA to DEQ

As we continue to review MDEQ's ROP Program submittal, we will contact you if we have any additional concerns or questions. We look forward to working with you to address the fee issues, and any other concerns, to ensure that your State ROP program complies with the Clean Air Act. If you have questions, please contact me at (312) 886-3000 or Cheryl Newton, Director of the Air and Radiation Division, at (312) 353-6730.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Hedman", written over a horizontal line.

Susan Hedman
Regional Administrator

FEE ADEQUACY WITHIN THE AIR QUALITY DIVISION
 Department of Environmental Quality
 Mandated and Proposed Fee Schedules
 As of March 31, 2011

Fiscal Year 2011-12 Proposed Air Emission Fee Comparison to Fiscal Year 2010-11				Fiscal Year 2010-11 Federally Mandated Minimum Fees	
Type		Fiscal Year 2010-11 Rates	DEQ's January 2011 Draft Fee Recommendation	State Administered Program	EPA Administered Program
Category I	Facility charge	\$4,485	\$4,485	\$0	\$0
	Emission charge per ton of emissions	\$45.25	Fiscal year 2011-12: \$45.80 Fiscal year 2012-13: \$46.50 Fiscal year 2013-14: \$47.20 Fiscal year 2014-15: \$47.90	Fiscal year 2010-11: \$44.48 Fee rate set previous September based upon consumer price index.	Fiscal year 2010-11: \$46.00 Fee rate set previous September based upon consumer price index.
Category II	Facility charge	\$1,795	\$1,795	\$0	\$0
	Emission charge per ton of emissions	\$45.25	Fiscal year 2011-12: \$45.80 Fiscal year 2012-13: \$46.50 Fiscal year 2013-14: \$47.20 Fiscal year 2014-15: \$47.90	Fiscal year 2010-11: \$44.48 Fee rate set previous September based upon consumer price index.	Fiscal year 2010-11: \$46.00 Fee rate set previous September based upon consumer price index.
Category III	Annual air quality fee only	\$250	\$250	\$0	\$0
Cap for billable emission for Category I and Category II electric generating facilities		1,000 tons per pollutant, 4,000 tons total	1,250 tons per pollutant, 5,250 tons total	4,000 tons per pollutant	4,000 tons per pollutant
Cap for billable emission for Category I and Category II non-electric generating facilities		1,000 tons per pollutant, 4,000 tons total	1,050 tons per pollutant, 4,200 tons total	4,000 tons per pollutant	4,000 tons per pollutant
Municipal electric generating facility	Emission charge for more than 450 tons but less than 4,000 tons	\$24,816	\$37,000 for facilities with emissions greater than 730 tons but less than 5,250 tons.	Fiscal year 2010-11: \$44.48 Fee rate set previous September based upon consumer price index.	Fiscal year 2010-11: \$46.00 Fee rate set previous September based upon consumer price index.
	Emission charge for more than 4,000 tons but less than 5,300 tons	\$24,816 plus \$45.25 per ton in excess of 4,000 tons Fiscal year 2012-13: \$46.50* Fiscal year 2013-14: \$47.20* Fiscal year 2014-15: \$47.90*	Facilities with less than or equal to 730 tons will be billed the Category I facility charge and the per ton charge for emissions.		
	Emission charge for more than 5,300 tons but less than 12,000 tons	\$85,045	\$127,000 for facilities with emissions greater than 5,250 tons but less than 12,000 tons. Facilities with emissions greater than or equal to 12,000 tons will be billed the Category I facility charge and the per ton charge for emissions.		
	Emission charge for more than 12,000 tons but less than 18,000 tons	\$159,459			

* Projected rates based upon consumer price index.

Source: Michigan Compiled Laws and Air Quality Division, Department of Environmental Quality.

FEE ADEQUACY WITHIN THE AIR QUALITY DIVISION
 Department of Environmental Quality
 Title V Revenues and Expenditures
 For Fiscal Years 2000-01 through 2009-10

Fiscal Year	Appropriations	Title V Revenues	Expenditures Charged to Title V Fees	Difference Between Revenue and Expenditures	Fund Balance
2000-01	\$ 0	\$ 9,535,902	\$ 10,169,478	\$ (633,576)	\$ 931,072
2001-02	\$ 11,550,100	\$ 11,896,979	\$ 8,980,679	\$ 2,916,300	\$ 3,847,372
2002-03	\$ 11,677,900	\$ 11,286,507	\$ 9,882,905	\$ 1,403,602	\$ 5,250,974
2003-04	\$ 11,673,600	\$ 11,159,282	\$ 10,845,926	\$ 313,355	\$ 5,564,330
2004-05	\$ 12,089,000	\$ 11,406,499	\$ 12,405,785	\$ (999,286)	\$ 4,565,044
2005-06	\$ 13,119,900	\$ 11,604,247	\$ 12,950,594	\$ (1,346,346)	\$ 3,218,698
2006-07	\$ 13,187,600	\$ 10,928,786	\$ 12,407,856	\$ (1,479,070)	\$ 1,739,628
2007-08	\$ 11,102,600	\$ 10,412,351	\$ 10,094,150	\$ 318,201	\$ 2,057,828
2008-09	\$ 10,826,900	\$ 9,810,910	\$ 10,012,103	\$ (201,193)	\$ 1,856,635
2009-10	\$ 11,531,600	\$ 9,576,177	\$ 10,020,696	\$ (444,518)	\$ 1,412,117

Source: Air Quality Division, Department of Environmental Quality.

GLOSSARY

Glossary of Acronyms and Terms

AQD	Air Quality Division.
<i>Code of Federal Regulations (CFR)</i>	The codification of the general and permanent rules published by the departments and agencies of the federal government.
DEQ	Department of Environmental Quality.
EPA	U.S. Environmental Protection Agency.
HAP	hazardous air pollutant.
major source	Facilities having the potential to emit more than 10 tons per year of a single HAP, 25 tons per year of a combination of HAPs, or 100 tons per year of any other pollutant regulated under the Clean Air Act.
maximum achievable control technologies (MACT)	A level of control that was introduced by Title III of the 1990 Clean Air Act Amendments. The purpose of these Amendments was to expedite the development of standards that would reduce HAP emissions. These emission levels set a baseline, often referred to as the "MACT floor," for the MACT standard.
modification	An amendment to an ROP.

performance audit	An economy and efficiency audit or a program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve program operations, to facilitate decision making by parties responsible for overseeing or initiating corrective action, and to improve public accountability.
potential to emit (PTE)	The maximum capacity of a facility to emit any air pollutant under its physical and operational design. A facility may incorporate permit conditions to limit its PTE.
reportable condition	A matter that, in the auditor's judgment, falls within any of the following categories: an opportunity for improvement within the context of the audit objectives; a deficiency in internal control that is significant within the context of the objectives of the audit; all instances of fraud; illegal acts unless they are inconsequential within the context of the audit objectives; significant violations of provisions of contracts or grant agreements; and significant abuse that has occurred or is likely to have occurred.
ROP	renewable operating permit.
standard industrial classification code	A standardized code system used to classify a business by the type of activity in which it is engaged.

