



Michigan
Office of the Auditor General
REPORT SUMMARY

Performance Audit
Fee Adequacy Within the Air Quality
Division
Department of Environmental Quality

Report Number:
 761-0143-07

Released:
 October 2007

Title V of the Clean Air Act set up 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.

Audit Objective:

To assess the effectiveness of the Air Quality Division's (AQD's) process to properly allocate expenditures to the ROP Program.

Audit Conclusion:

We concluded that AQD's process to properly allocate expenditures to the ROP Program was effective. Our audit report does not include any reportable conditions related to this objective.

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Background:

Act 451, P.A. 1994 (Section 324.5522(2) of the *Michigan Compiled Laws*), established the State's ROP Program fee schedule. The fees in Section 324.5522(2) of the *Michigan Compiled Laws* expired as of September 30, 2007. Act 75, P.A. 2007, which became 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 as specified in Section 324.5522(3) of the *Michigan Compiled Laws*.

Audit Conclusion:

We concluded that the statutory fees (including unexpended fees carried forward from prior years) for the ROP Program were sufficient to meet the minimum requirements of the Clean Air Act as specified in Section 324.5522(3) of the *Michigan Compiled Laws*. 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. Although expenditures exceeded fee revenues for the ROP Program for fiscal years 2004-05 and 2005-06, fees carried over from prior years were sufficient to cover expenditures. However, we noted one reportable condition (Finding 1).

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Reportable Condition:

ROP Program fees did not generate sufficient revenues nor did AOD reduce ROP Program activities to ensure that ROP Program costs did not exceed revenues for fiscal years 2004-05 and 2005-06. Also, fees charged to entities are not projected to generate sufficient revenues to cover ROP Program costs for fiscal year 2006-07. (Finding 1)

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Agency Response:

Our audit report contains 1 finding and 1 corresponding recommendation. The Department of Environmental Quality's preliminary response indicates that it partially agrees with the recommendation.

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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>



Michigan Office of the Auditor General
201 N. Washington Square
Lansing, Michigan 48913

Thomas H. McTavish, C.P.A.
Auditor General

Scott M. Strong, C.P.A., C.I.A.
Deputy Auditor General