

DATE: 3/1/2011
TO: Interested Parties
FROM: Viola Bay Wild, Senior Fiscal Analyst
RE: Renewal Operating Permit (ROP) Fee Proposal

The following information details the Air Quality Program's Renewal Operating Permit (ROP) fee increase proposal that is part of the Governor's Executive Recommended Budget for FY 2011-12.

Renewal Operating Permit Program Background

The Federal Clean Air Act (CAA) of 1990 established a national Renewable Operating Permit (ROP) program and requires states to operate a system of user fees (air emission fees) that would provide sufficient revenue to fund a state ROP program for facilities that are the major sources of air pollution emissions. The Air Quality Division within the DEQ administers the ROP program, issues permits, and conducts inspections of facilities.

In order to be considered a "major source" for air emissions and be subject to Title V of the Federal CAA, a facility must emit or have the potential to emit 10 tons per year of any one hazardous air pollutant (HAP), 25 tons per year of any combination of HAPS, or 100 tons per year of any other regulated air contaminant. Facilities with ROPS must pay the annual emission fees to the State of Michigan.

Renewal Operating Permit Fee Program

The current fee structure of the ROP program is established in MCL 324.5522 and will sunset on October 1, 2011. The Governor's fee increase proposal would require a statutory change that would extend the sunset to October 1, 2015 and change the formula to increase the fees.

The ROP fees paid by facilities are assessed by formula and based upon the amount of air emissions in tons per year that a facility emits, a formula fee rate per ton, and a facility fee. The formula also includes caps on the amount of emissions that are able to be used in the calculation of the fees. This cap limits the fees that are placed upon facilities that emit greater amounts of pollutants.

According to the DEQ, the ROP fee program does not generate sufficient funding to adequately implement the program. The Federal CAA prohibits the use of any other state funding to fund the program; funding must come from the air emission fees paid by the facilities. Without the proposed fee increase, additional program reductions will need to be taken. If the extension of the sunset on the ROP fee is not enacted, Michigan would no longer have a federally approved program as required by federal law. If this happens or if the U.S. EPA determines that the Michigan program is inadequate, the EPA will begin the process to revoke Michigan's program and institute a federal program.

Proposed Fee Increase

According to the Department, the proposed formula change would generate enough funding to operate at approximately the FY 2011 level of funding and fund the Department's cost allocations. Under the current fee formula in FY 2011, the fees are anticipated to generate \$8.77 million in revenue. The chart below provides the Department's estimates of the projected revenue increase under the new proposal:

Renewable Operating Permit Fee Proposal

Fiscal Year	Projected Revenue under Proposed Formula (in millions)
2011-12	\$9.8
2012-13	9.9
2013-14	10.0
2014-15	\$10.1

I hope you have found this information helpful. If you have questions or need further clarification, feel free to contact me at 3-8080.