

**SENATE FISCAL AGENCY
 MEMORANDUM**

DATE: April 6, 2007
TO: Members of the Senate Environmental Quality Subcommittee
FROM: Jessica Runnels, Fiscal Analyst
RE: Air Emissions Fees

As part of the FY 2007-08 Environmental Quality budget, the Governor proposed changes to air emissions fees. The proposal would amend Part 55 (Air Pollution Control) of the Natural Resources and Environmental Protection Act (NREPA) to remove the sunset on the current air permit fees and revise the fee schedule with higher levels.

CONTENT

Air emissions fees support the Federal Renewable Operation Permit (ROP) and New Source Review (NSR) programs under Title V of the Federal Clean Air Act. According to the Act, states must charge fees for ROPs in amounts sufficient to cover the costs of the program. New Source Revenue permits for facilities subject to ROPs may also be covered by air emissions fees. The proposal would increase both the facility and emissions charges assessed for Category I and Category II facilities and would eliminate the separate fee schedule for municipal facilities. It also would increase the flat fee paid by Category III facilities. Table 1 outlines the proposed fee changes that would apply in FY 2007-08. The proposed fees for all categories would be adjusted annually according to the Detroit Consumer Price Index (CPI) in subsequent fiscal years and the proposal would eliminate the current sunset of October 1, 2007.

For Category I and Category II facilities, there is a maximum on the number of tons of pollutants on which the emissions charge may be assessed. Currently, the emissions charge is assessed on not more than 4,000 tons of all fee-subject pollutants or 1,000 tons per pollutant, if the sum of all the fee-subject air pollutants except carbon monoxide emitted at the fee-subject facility is less than 4,000 tons. The proposal would increase the maximum number of tons for which the emission charge is applied to 8,000 tons or 2,000 tons per pollutant, if the sum of all the fee-subject air pollutants except carbon monoxide emitted at the fee-subject facility were less than 8,000 tons.

The proposal would eliminate the requirement for the Auditor General to conduct a biennial audit of the federally mandated operating program.

The proposal would refund the balance of the Emissions Control Fund to Category I and Category II facilities if the year-end balance of the Fund, after all appropriate expenditures, were greater than \$2.0 million. The refunds would be in the form of credits applied toward the fees due from facilities in the subsequent fiscal year. The DEQ would be required to notify each fee-subject facility of all credits received.

Currently, NREPA specifies that billing for the fees occurs between January 1 and January 15, with payment due within 90 days. The proposal would allow the DEQ to adjust the billing date

and due date for Category III dry cleaning facilities to combine these fee assessments with fees due for licensing and certification requirements under the Public Health Code and the Fire Prevention Code.

Under the proposal, if a facility were requested to submit its previous year's emissions to the DEQ, then it also would have to submit supporting information sufficient for the DEQ to confirm the emissions for that year and to meet the reporting requirements of Federal law.

The proposal would clarify that revenue in the Emissions Control Fund may be used to administer both Renewable Operating Permit and New Source Review permitting functions.

Table 1

AIR EMISSIONS FEES			
<u>Type of Facility</u>	<u>Number of Facilities</u>	<u>Current fee</u>	<u>Proposed Fee</u>
Category I	398	Sum of facility charge and emission charge: <ul style="list-style-type: none"> • Facility charge = \$4,485 • Emissions charge = \$45.25 per ton, with maximums 	Sum of facility charge and emission charge: <ul style="list-style-type: none"> • Facility charge = \$5,010 • Emissions charge = \$50.84 per ton, with maximums
Category II	522	Sum of facility charge and emission charge: <ul style="list-style-type: none"> • Facility charge = \$1,795 • Emissions charge = \$45.25 per ton, with maximums 	Sum of facility charge and emission charge: <ul style="list-style-type: none"> • Facility charge = \$2,005 • Emissions charge = \$50.84 per ton, with maximums
Category III	965	\$250	\$275
Municipal Category I (that emits more than 450 tons and less than 18,000 tons)			
• Between 450 and 4,000 tons		\$24,816	See Category I above
• Between 4,000 and 5,300 tons		\$24,816, plus \$45.25 per ton over 4,000	See Category I above
• Between 5,300 and 12,000 tons		\$85,045	See Category I above
• Between 12,000 and 18,000 tons		\$159,459	See Category I above

BACKGROUND

Air emissions fees are assessed on facilities that require a Renewable Operating Permit in order to discharge air contaminants and are used exclusively for the administration of the Title V program. Title V refers to the section of the Federal Clean Air Act Amendments of 1990 establishing the Renewable Operating Permit program and authorizing states to administer it. The State of Michigan incorporated the Federal 1990 Amendments into State law in 1993 and they became operational in 1995. Michigan was authorized by the U.S. Environmental Protection Agency to administer the Title V air emissions program because it met a number of

qualifications, which include assessing air emissions fees sufficient to operate the program and statutorily restricting expenditure of the fee revenue to Title V program costs. Fee revenue provides the sole support for operation of the Title V permitting program. Air emissions permits are valid for five years and the fees are paid annually to maintain the permits.

The current air emission fee levels were established in 2001. At that time, a sunset of October 1, 2005 was established. When that sunset approached, the fees were extended without change for another two years with a new sunset date of October 1, 2007. A fund balance was used to cover a shortfall between revenue and expenditures for the past two years.

FISCAL IMPACT

The proposed fees would generate approximately \$16,576,000 in revenue, which would be \$5,500,000 over the current expected revenue of \$11,076,000. The U.S. Environmental Protection Agency establishes a Presumptive Minimum that a state must collect to operate the Title V ROP program at an acceptable level. For Michigan, this amount is approximately \$12,105,000. The balance of \$4,471,000 would cover NSR operations for the major facilities that are also subject to the ROP provisions. These amounts are applicable for FY 2007-08 only, since the proposal would increase the fees annually according to the Detroit CPI. The January Consensus Revenue Estimating Conference determined this amount to be 2.5% for the next year.

All air emission permit fee revenue is deposited into the Emissions Control Fund and used exclusively for implementing the operations permit program, including permit review and renewal, data entry, tracking, enforcement, emissions monitoring, modeling and analysis, inventories of emissions, and central administrative costs in an amount proportional to the effort needed to support the air emissions program.

The U.S. EPA conducts regular audits of Michigan's Clean Air Act Title V program. In addition to penalties specific to the air emissions program, if the State-run program is insufficient, the EPA has the authority to withhold Federal highway funds.

This bill has not been introduced yet. If a bill is introduced, it could vary substantially from the Governor's proposal. Please contact me if you have questions.

c: Gary S. Olson, Director
Ellen Jeffries, Deputy Director
Bill Bowerman, Chief Analyst