

# State Notes

## TOPICS OF LEGISLATIVE INTEREST

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### **Sunrise, Sunset: Swiftly Fly the Years for DEQ Permit Fees** **By Jessica Runnels, Fiscal Analyst**

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October 1, 2007, will be an important day for the Department of Environmental Quality (DEQ). This is the sunset date of \$18,432,100 in annual permit fees for three major regulatory programs: air emissions, groundwater discharge, and solid waste. Therefore, the continuation of these three programs in fiscal year (FY) 2007-08 depends on either extending the permit fees or finding alternative funding. To ease the way next year, the following discussion reviews the programs and the history establishing their current fee structures.

#### **Air Emissions**

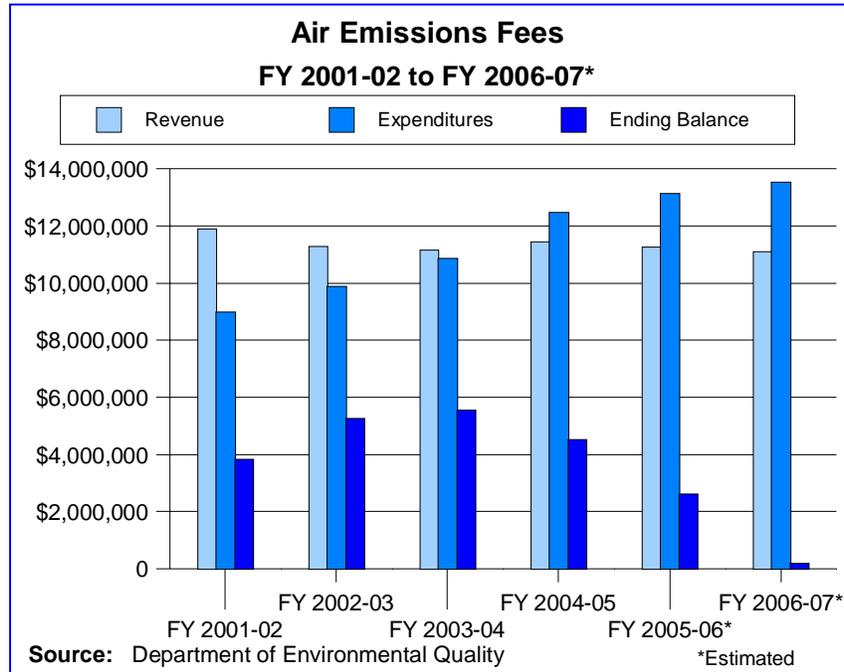
Air emissions fees are assessed on facilities that require a Renewable Operating Permit in order to discharge air contaminants. The fees are used exclusively for the administration of the Title V program. Title V refers to the section of the Federal Clean Air Act amendments of 1990 establishing the Renewable 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 United States 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.

For the past decade or so, air emissions fees have been set in statute with a sunset date three or four years in the future. Before the sunset took effect, the fees would be renegotiated, generally with an increase to account for inflation in program costs. In 2005, the air emissions fees were extended for two more years without a change in the fee levels. A balance of over \$4.5 million had built up in the Air Emissions Fee Fund due to a hiring freeze following the State's 2002 early retirement program, furlough days, banked leave time, travel reductions, and purchasing restrictions. The fee extension was designed so the Fund balance would be used to compensate for the difference between annual fee revenue and expenditures. This may result in a tight fit financially for the Title V program to get through FY 2006-07 without program reductions.

Figure 1 compares the permit fee revenue with fee expenditures for the program. As is the pattern with all three of the regulatory program discussed, a Fund balance that built up early in the period compensates for expenditures that are greater than revenue later in the period.



**Figure 1**



### Groundwater Discharge

The groundwater discharge permit program was established many decades ago and requires individuals, businesses, and organizations that discharge wastewater to the ground or groundwater to obtain a permit. However, groundwater dischargers were not required to pay a fee for a permit until three years ago, beginning in FY 2003-04. When the permit fees were established, the annual revenue offset General Fund support for the program and now represents 93.4% of the total appropriation for the groundwater discharge regulatory program. The appropriation in FY 2006-07 for the program includes \$1,912,300 in fee revenue, \$115,400 from the General Fund, and \$20,600 in Federal funds. Since the permit fee revenue contributes such a large portion of its support, the program's sustainability is determined by the fee collections.

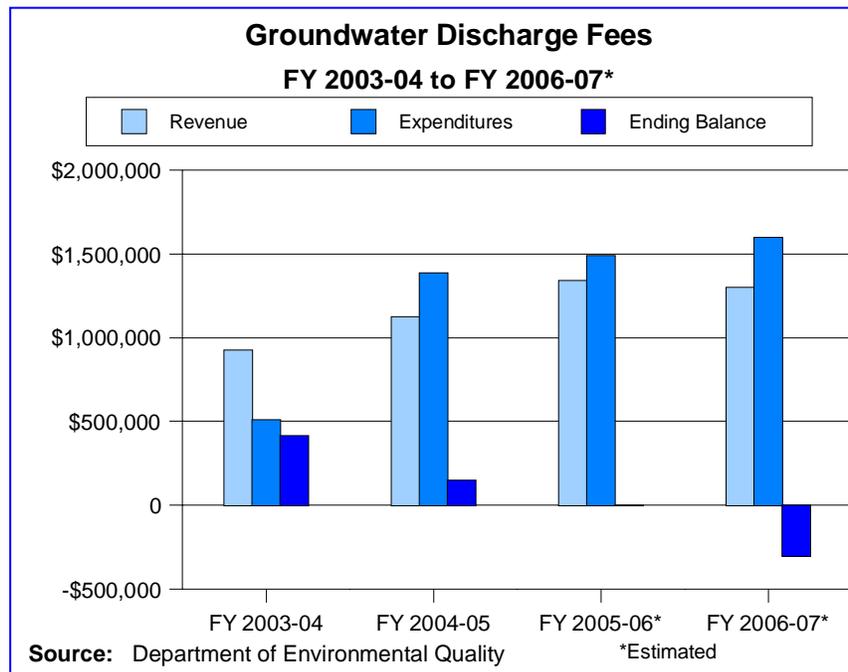
The current fee structure has three fee levels, one for each of three groups that are defined according to which administrative rule applies. Municipalities with populations less than 1,000 are combined with one of the groups regardless of which administrative rule otherwise would apply. When the bill to enact groundwater discharge permit fees was considered by the Legislature four years ago, the discussion focused on balancing the flow volume and complexity of the wastewater discharged. In addition, exemptions for different types of organizations were considered, but none were included in the final version that became law.

Figure 2 compares the groundwater discharge permit fee revenue with fee expenditures for the program. At the beginning of FY 2005-06, the program estimated annual expenditures to be about \$1.6 million. As the year progressed and it became clear that there would be



insufficient funds, program operations were adjusted to avoid a negative year-end balance. Similar adjustments will be necessary in FY 2006-07 to avoid the ending balance projected in [Figure 2](#).

**Figure 2**



### Solid Waste

There are two types of landfills for the collection of solid waste. Type II landfills receive municipal solid waste and Type III landfills receive selected solid waste from industrial and construction activities. Type III landfills include captive facilities that receive only waste generated on-site and monofills that receive only one type of solid waste, such as coal ash. (Type I landfills are hazardous waste disposal facilities, not solid waste facilities, so they are regulated under a different program and statute.) Type II and Type III landfill owners or operators are required to obtain an operating license on a five-year basis and pay an annual surcharge fee based on the volume of solid waste received.

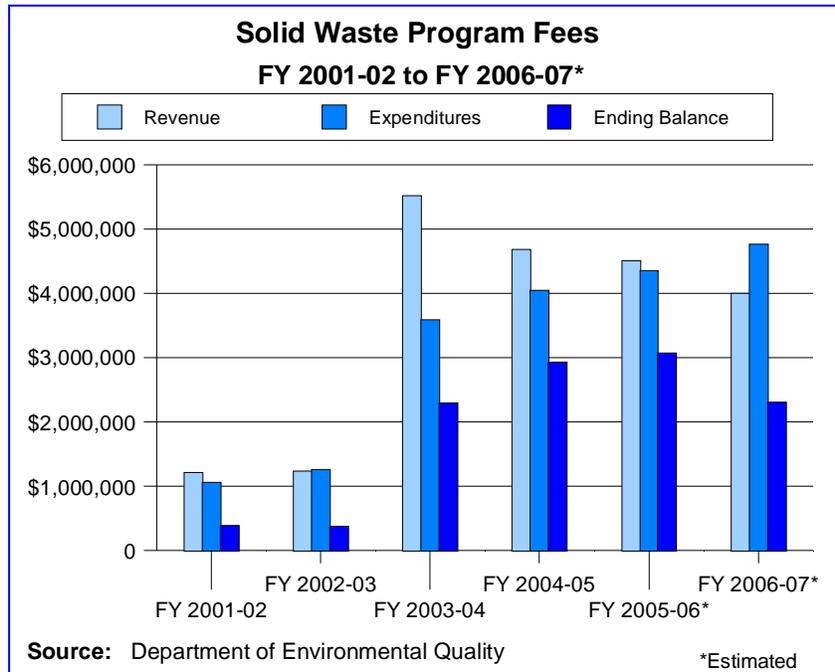
Revenue from the surcharge fees and landfill construction permit fees is deposited into the Solid Waste Management Fund and used to support the solid waste regulatory program. In FY 2006-07, the appropriation of \$4,322,000 from the Solid Waste Management Fund is the sole support for this program, with the exception of \$71,800 from waste reduction fee revenue. Operation of the solid waste management program and administrative costs of the DEQ are the only appropriations of solid waste program fee revenue.

[Figure 3](#) compares fee revenue with fee expenditures for the program. Fees have been assessed for many years, but when they were last enacted in FY 2003-04, the surcharge fee revenue replaced General Fund support for the program and replaced an administrative fee



assessed on landfill owners or operators. At that time, the surcharge and construction permit fees became the sole funding source for the solid waste management program. This change accounts for the significant increase in fee revenue in FY 2003-04, but overall funding for the program remained relatively stable. With fee levels not changing for four years and program costs increasing, this pattern was expected.

**Figure 3**



**Conclusion**

Over the past few years, restricted funds have increasingly made up a larger portion of the annual operations budget for the DEQ. In FY 2006-07, only 8.0% of the DEQ budget comes from the General Fund, compared with 24.0% in FY 2000-01. As General Fund dollars become scarce, permit fees and other restricted fund sources are filling the gap. Many of the programs in the DEQ are self-supporting with fee revenue. Of the three programs discussed here, two receive no General Fund dollars and one receives a nominal amount from the General Fund. If this trend continues, it is unlikely these programs will receive support from other fund sources. In order to continue the programs, fees will have to be reconsidered before the sun sets.