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Senate Bill 446 (as introduced 8-20-19)
Sponsor: Senator Rosemary Bayer
House Committee: Appropriations
Senate Committee: Appropriations

Date Completed: 8-26-19

CONTENT

The bill would amend Part 55 (Air Pollution Control) of the Natural Resources and Environmental Protection Act, the statutory basis for the Department of Environment, Great Lakes, and Energy (EGLE) Air Quality Division's Renewable Operating Permit (ROP) program. The bill would extend the sunset on the ROP program fees from October 1, 2019, to October 1, 2023.

MCL 324.5522

BACKGROUND

Under Title V of the Federal Clean Air Act (CAA), states are required to operate a permitting program for facilities that are major sources of air pollution within their respective states. The EGLE's ROP program is Michigan's program under Title V.

Large Michigan facilities that pay ROP fees include manufacturing facilities, electric and steam generation plants, mining and processing facilities, chemical manufacturers, and others. The fees these facilities pay are based primarily on the amount of hazardous air pollutants (HAPs) released annually by those facilities. Additionally, smaller facilities pay a flat \$250 fee; most of these facilities are dry cleaners and parts degreasing shops.

Fees are assessed on the tonnage of HAPs released by a facility on an annual basis. Permits fall into three broad categories based on HAP tonnage.

- Category I: Facilities that are capable of releasing 100 tons or more of HAPs per year.
- Category II: Facilities that are capable of releasing 10 tons or more of any single HAP, or 25 tons or more of HAPs in aggregate.
- Category III: Not considered a "major source" of air pollution by the Environmental Protection Act. These facilities mainly are dry cleaners and parts degreasing facilities.

FISCAL IMPACT

Currently, all Category I and II facilities that are not municipal electricity generating facilities pay a base annual facility charge as well as a per-ton charge. Per-ton charges are capped so that after reaching a level of emissions, EGLE cannot bill for further emissions. It should be noted that this is not a cap on emissions; it is a cap on billing. Category III facilities are charged a \$250 facility charge and no per-ton rate. [Table 1](#) below shows the current fee structure for Category I and II facilities that are not municipal electric generating facilities.

Table 1

Current Fees: Category I and II Non-Municipal Electric Generating Facilities				
Facility Type	Facility Charge	Charge Per Ton	Billing Cap (tons)	Maximum Fee
Category I: Nonelectric generating facility	\$5,250	\$51.15	1,250 per pollutant, 4,500 total	\$235,425
Category I: Electric generating facility	\$5,250	\$51.15	1,500 per pollutant, 6,100 total	\$317,265
Category II: Nonelectric generating facility	\$1,795	\$51.15	1,250 per pollutant, 4,500 total*	\$6,910*
Category II: Electric generating facility	\$1,795	\$51.15	1,500 per pollutant, 6,100 total*	\$6,910*

* While there is not an explicit tonnage cap on billings for Category II facilities, it is likely that a Category II facility with an ROP fee higher than \$6,590 (meaning it had emissions higher than 100 tons) would be categorized as a Category I facility.

Under current law, municipal electric generating facilities with emissions over 730 tons have a different fee structure from other regulated facilities. Table 2 shows how those fees exist in current law.

Table 2

Current Fees: Municipal Electric Generating Facilities	
Emission Level	Fee
0 – 730 tons	\$5,250 plus \$51.15 per ton (same as equivalent Category I facility)
731 – 5,000 tons	\$41,830
5,000 and greater	\$5,250 plus \$51.15 per ton (same as equivalent Category I facility)

The bill would have a positive fiscal impact on EGLE and no fiscal impact on local units of government. The bill would prevent EGLE from losing approximately \$9.6 million in fee revenue each year. Revenue from these fees is used to offset the costs related to permit review and other costs incurred by EGLE.

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