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BILL ANALYSIS

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Senate Bill 530 (as reported without amendment)
Sponsor: Senator Rosemary Bayer
House Committee: Appropriations
Senate Committee: Appropriations

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 for four years, from October 1, 2019, to October 1, 2023.

The bill also would adjust and increase annual ROP fees and create a new categorical fee structure. These changes are detailed in the **FISCAL IMPACT** section below.

MCL 324.55201 & 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. EGLE's ROP program is Michigan's program under Title V.

Approximately 850 large Michigan facilities pay ROP fees under the ROP program. These facilities 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, approximately 520 smaller facilities pay a flat $250 fee; most of these facilities are dry cleaners and parts degreasing shops.

Fees are assessed by 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 (EPA) (these facilities are mainly 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.

Under the bill, the current three-tiered categorical fee structure would become six-tiered, shown in Table 1. Category A, B, C, and D facilities would pay an increased base annual facility charge as well as an increased per-ton charge. Category E and F facilities would pay a base annual facility charge and no per-ton charge.

Table 1

Current Fee Categories:	**Fee Categories Under S.B. 530**
Category I	Category A - Electric Providers
	Category B - Nonelectric Providers
Category II	Category C - Major Hazardous Air Pollutants
	Category D - New Source Performance Standards
	Category E - Title V Opt-Out Permit
Category III	Category F - Not considered "major source"

Table 2 below shows the current fee structure for facilities that are not municipal electric-generating facilities. Table 3 shows how these fees would change under the bill.

Table 2

Current Fees: Nonmunicipal 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*
Category III	$250	N/A	N/A	$250
* While the bill does not provide 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.				

Table 3

Proposed Fees Under S.B. 530: Nonmunicipal Facilities				
Facility Type	**Facility Charge**	**Charge Per Ton**	**Billing Cap (tons)**	**Maximum Fee**
Category A	$5,250 -$45,000	$53.00	1,500 per pollutant, 6,100 total	$368,300
Category B	$5,250 - $21,000	$53.00	1,250 per pollutant, 4,500 total	$259,500
Category C	$2,500 -$4,500	$53.00	1,250 per pollutant, 4,500 total	$243,000
Category D	$1,795 -$2,500	$53.00	1,250 per pollutant, 4,500 total	$241,000
Category E	$250 - $1,795	N/A	N/A	$1,795
Category F	$250	N/A	N/A	$250

Under current law, municipal electric generating facilities with emissions over 730 tons have a different fee structure than other regulated facilities. Tables 4 and 5 show how those fees exist in current law and would be changed under the bill, respectively.

Table 4

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)

Table 5

Fees Under S.B. 530: Municipal Electric Generating Facilities	
Emission Level	**Fee**
0 – 646 tons	$5,250 - $21,000 plus $53.00 per ton (same as equivalent Category B facility)
646 tons and greater	$50,000

In FY 2018-19, the total revenue collected under the ROP program was $9.6 million. Under the bill, collections for FY 2019-20 likely would increase to $10.0 million, an increase of $400,000 over FY 2018-19 collections. The fiscal year 2019-20 EGLE budget as approved in Senate Bill 137 (S-2) CR-1 included an additional $2.0 million GF/GP increase to the EGLE ROP program to address increasing program costs. The anticipated total revenue for the ROP program under the bill, including the additional $2.0 million, would be approximately $12.0 million on an annual basis.

Date Completed: 9-18-19 Fiscal Analyst: Abbey Frazier