



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAR 15 2011

REPLY TO THE ATTENTION OF:

Dan Wyant  
Director  
Michigan Department of Environmental Quality  
P.O. Box 30473  
Lansing, Michigan 48909

Dear Mr. Wyant:

The U.S. Environmental Protection Agency is reviewing the Michigan Department of Environmental Quality's (MDEQ's) updated Clean Air Act Part 70 Operating Permit Program submittal dated November 9, 2010. While our review is ongoing, we have identified several aspects of Michigan's Renewable Operating Permit (ROP) Program fee demonstration that warrant your attention.

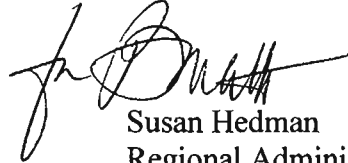
Section 502(b) of the Clean Air Act and 40 C.F.R. § 70.9 require that a permitting authority collect fees from subject sources that are sufficient to cover Title V program expenses, and that are used solely to cover the costs of the Title V program. Based on our review to date, we are concerned that:

- MDEQ collects less than the presumptive minimum allowed by 40 C.F.R. 70.9(b)(2), and does not provide a demonstration that the fees collected are sufficient to cover ROP Program costs.
- The current fee authority expires September 30, 2011, and there is no provision to extend or replace it.
- MDEQ may be funding overhead costs using ROP fees beyond that which can be reasonably attributed to the ROP Program.
- MDEQ is not fully implementing the ROP program due to decreases in funding and staffing.

Until Michigan can adequately address these concerns, EPA cannot approve MDEQ's revised ROP Program, and must undertake notice and comment rulemaking action to disapprove the submittal. Further, EPA will initiate a Notice of Program Deficiency to address the inadequacy of the ROP fee structure.

As we continue to review MDEQ's ROP Program submittal, we will contact you if we have any additional concerns or questions. We look forward to working with you to address the fee issues, and any other concerns, to ensure that your State ROP program complies with the Clean Air Act. If you have questions, please contact me at (312) 886-3000 or Cheryl Newton, Director of the Air and Radiation Division, at (312) 353-6730.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Hedman", with a long horizontal flourish extending to the right.

Susan Hedman  
Regional Administrator