

fiscal forum

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Refined Petroleum Fund

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Executive Summary

The Refined Petroleum Fund (RPF) is a restricted fund that receives the revenues from a 7/8th-cent per gallon environmental protection regulatory fee levied on all refined petroleum products sold in Michigan. In recent years, the fee has generated between \$51.0 and \$52.0 million annually. When first imposed in 1988, the fee's revenues were deposited into the Michigan Underground Storage Tank Financial Assurance Fund (MUSTFA) which funded a reimbursement program to qualified owners and operators of leaking underground storage tanks for cleanup activities. In 1995, the Department of Treasury declared the MUSTFA Fund insolvent and the Department of Environmental Quality (DEQ) stopped accepting any additional MUSTFA cleanup claims.

In 2004, the RPF was created and the 7/8th-cent fee revenues began to be deposited into the new fund. The remaining MUSTFA fund balance was also transferred to the new fund. Under the new RPF Program, funding was appropriated within the budgets of three state departments – DEQ for cleanup activities, administration, and other various programs, the Department of Agriculture (now renamed Michigan Department of Agriculture and Rural Development, or MDARD) for administration and refined petroleum consumer protection programs, and the Department of Treasury for debt service payments on state environmental bonds.

Under the new program, the RPF funding for cleanup activities within DEQ shifted from reimbursing underground storage tank (UST) owners and operators for corrective actions to begin financing only the direct cleanup of contaminated sites considered to be “orphan sites” – these are sites for which there is no longer a liable party and the state will likely assume responsibility for remediation. Beginning October 1, 2014, RPF funding will not be expended in the Treasury budget for debt service payments and will only be appropriated in the DEQ and MDARD budgets. The program receiving the largest appropriation from the RPF in FY 2014-15 is the Refined Petroleum Product Cleanup Program in the DEQ budget which funds direct cleanups of leaking USTs.

In December 2014, Public Act 416 of 2014 was enacted which authorized major modifications to the Refined Petroleum Fund and the use of the environmental fee revenues. The new law established an Underground Storage Tank Cleanup Fund that would be administered by an Underground Storage Tank Cleanup Authority. This fund will now receive the first \$20.0 million of revenues collected from the 7/8th-cent environmental protection fee which would be used to reimburse owners and operations of USTs for UST compliance and cleanups; the remaining

The Refined Petroleum Fund:

- ◆ *receives revenue from a 7/8th-cent environmental protection regulatory fee placed on each gallon of refined petroleum sold for resale in Michigan.*
- ◆ *has received an annual average of \$51.3 million in revenues over the past 5 years.*
- ◆ *will be expended in DEQ and MDARD programs in FY 2014-15.*

revenues would be deposited into the existing RPF. The new law narrows the uses of the RPF to only LUST cleanup activities, administrative costs, and other purposes as determined by the Legislature. In addition, the consumer protection programs in MDARD may be funded by the RPF until December 31, 2016.

There are currently an estimated 8,500 “releases” from leaking USTs at approximately 6,700 different sites in Michigan that still need corrective action to address contamination. Of these sites, it is estimated that about half are considered orphan sites. The cost to the state to clean up these orphan sites is anticipated to be approximately \$1.0 billion. The DEQ contends that if the state does not respond adequately to leaking tanks, drinking water supplies may be threatened and explosive and toxic vapors may be uncontrolled at contaminated sites. In addition, some sites may add pollution to Michigan lakes and rivers.

Background Information

The RPF is a restricted fund established in Public Act 390 of 2004 within the state treasury. The primary source of revenue into the fund is a 7/8th-cent per gallon environmental protection regulatory fee imposed on all refined petroleum products sold in this state. Michigan first imposed this fee in 1988 by the enactment of PA 518 of 1988, the Michigan Underground Storage Tank Financial Assurance Act. The authority for the regulatory fee is now contained in Section 21508 of NREPA, the Natural Resources and Environmental Protection Act. Beginning October 12, 2004, all revenue from the fee began to be deposited into the RPF. Before that date, the revenues were deposited into the MUSTFA Fund. Until the passage of PA 491 of 2014, the fee was set to sunset on December 31, 2015. However, the newly enacted law eliminates the sunset of the fee altogether.

In 1988, the Legislature enacted the Michigan Leaking Underground Storage Tank Act (LUST), PA 478 of 1988, which provides for the regulation of leaking USTs and establishes standards for corrective actions. The Legislature passed this act in response to the then recently-enacted federal underground storage tank system regulations that were established in 1984 in Subtitle I of the Federal Resource Conservation and Recovery Act (RCRA). This federal act requires the U.S. Environmental Protection Agency (EPA) to develop regulations concerning releases from USTs. Federal law requires states to develop UST regulatory programs that are similar to the federal requirements to oversee the prevention, discovery, and cleanup of leaking USTs. Michigan’s 1988 MUSTFA Act establishing the 7/8th-cent fee was then enacted to assist UST owners in complying with these new EPA requirements and to provide financial reimbursement for corrective actions concerning spills and leakage.

The MUSTFA Program began operating in 1989 and paid reimbursement claims to owners and operators of USTs totaling approximately \$625.0 million before the fund was declared insolvent in 1995. Under the MUSTFA Program, owners of USTs that complied with the reporting and registration requirements were eligible for direct reimbursement payments from the MUSTFA Fund for corrective actions due to UST leaks. Because the high amount of claims were greater than the revenue being collected, in 1993, the Legislature created the MUSTFA Authority and empowered it to issue bonds to generate additional funding. Afterwards, the MUSTFA Authority issued \$215.0 million in revenue bonds to help finance the program. Because the MUSTFA Fund was later declared insolvent, the program did not accept any new claims after June 29, 1995. After that date, MUSTFA revenues were used to pay eligible claims that had already been received and to pay off the remaining bond debt, until the Legislature created the RPF in 2004.

In December 2014, PA 481 of 2014 was enacted which established a new restricted fund, the Underground Storage Tank Cleanup Fund, as well as a new entity, the Underground Storage Tank Authority. The Authority is governed by a board of seven members and is designated to administer the fund. Under the new law, the UST Cleanup Fund will receive the first \$20.0 million of revenues collected from the 7/8th-cent environmental protection fee; the remainder of the fee’s revenues will continue to be deposited into the existing RPF.

The UST Cleanup Fund may be expended for the following purposes:

- As a first priority, to pay principal and interest due on bonds or notes issued by the finance authority
- To pay for the administrative costs of implementing Part 215 of NREPA (LUST corrective actions) to various state departments and the finance authority (up to 7.0% of fund’s annual revenue)
- Payment of approved corrective action claims by owners/operators of LUSTs

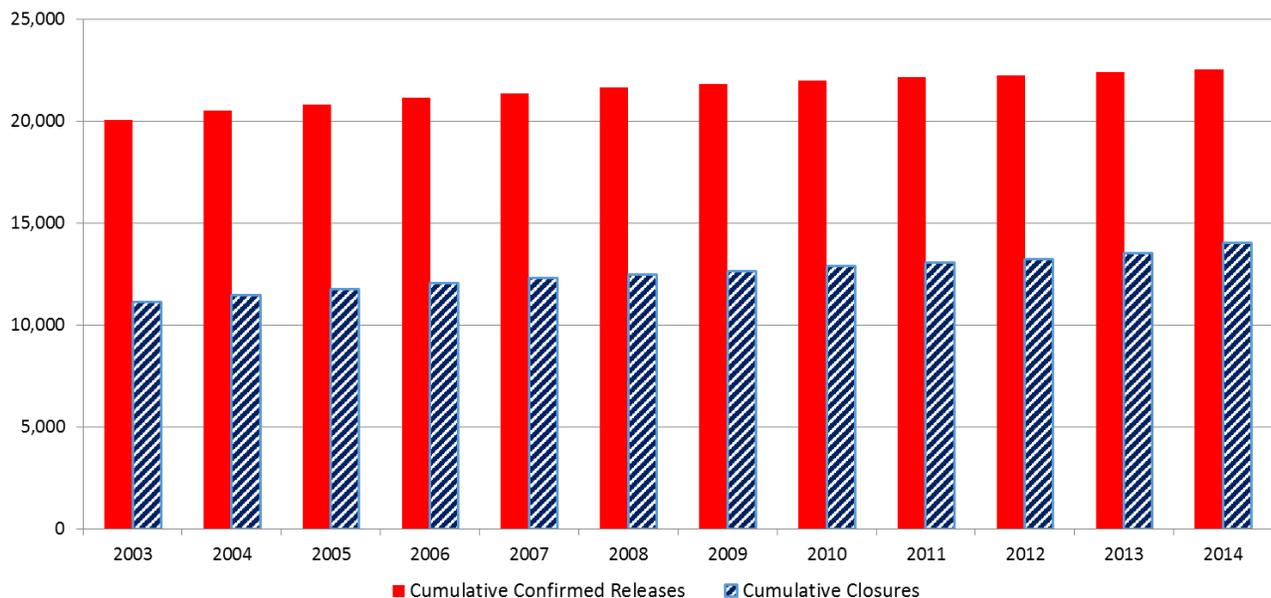
PA 481 of 2014 also narrows the uses of the current RPF to funding LUST cleanup activities undertaken by the DEQ, the administrative costs of the DEQ related to the RPF and implementing Part 213 of NREPA (LUSTs), and other purposes determined by the Legislature. In addition, the new law allows the funding of gasoline inspection programs in MDARD until December 31, 2016 and eliminates the sunset on the 7/8th-cent fee.

Leaking Underground Storage Tank Program

The Leaking Underground Storage Tank (LUST) Program within DEQ regulates the cleanup of contamination resulting from leaking USTs in Michigan. According to the Department, when the Underground Storage Tank programs were created in Michigan almost 26 years ago, approximately 21,800 releases from USTs that stored petroleum products were discovered. Since then, over 13,000 of these storage tanks that had “releases” have been cleaned up. Currently, it is estimated that there are approximately 8,500 releases at 6,700 sites in Michigan which still need the necessary corrective action taken to address contamination.

Figure 1 below presents a 12-year history of the cumulative number of confirmed LUST releases in Michigan and the cumulative number of releases that have been cleaned up or “closed”. In FY 2003, there was a total of 20,058 LUST releases that had been confirmed up to that date over the years in the state. That number rose to 22,548 confirmed releases in FY 2014 as a result of additional LUSTs being discovered in that time frame. By the end of FY 2003, 11,135 releases had been successfully closed. During the next eleven years, an additional 2,875 releases were closed - making the cumulative total of closures rise to 14,010 throughout the state.

Figure 1
DEQ LUST Cleanup Program:
Total Cumulative Confirmed Releases & Cumulative Closed Releases
FY 2003 - 2014

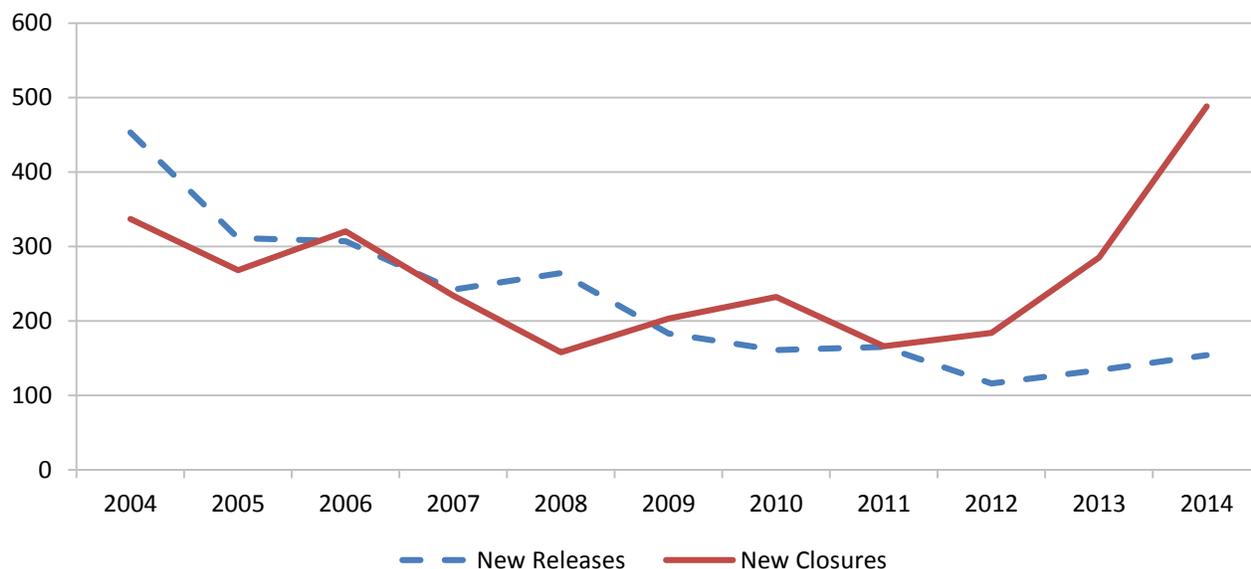


Data Source: Department of Environmental Quality

Figure 2 below presents a ten-year history of the number of new LUST releases discovered each year between FY 2004 and FY 2014, as well as the number of LUST releases that were successfully closed during each year. There were a total of 2,490 new confirmed releases during this eleven-year period. While the actual annual number widely varied, overall there was an average of 226 new releases detected in each year. During FY 2004, 453 new releases were discovered - the highest number during this time period; FY 2012 had the lowest number with 116.

While the number of annual new releases has been declining, the number of successful closures has been increasing from FY 2004 through FY 2014. During this time period, 2,875 releases were closed – an average of 261 per year. In addition, during the last three years, the number of closures have increased from 184 in FY 2012 to 285 in FY 2013 and, finally, to 488 in FY 2014.

Figure 2
DEQ LUST Cleanup Program:
New Releases and Closures
FY 2004 - 2014



Data Source: Department of Environmental Quality

Michigan law requires that an owner of a UST is liable if a release occurs. If there is a legally liable party, then the DEQ will oversee the remediation to ensure the cleanup activities meet state requirements. However, about half of the remaining 8,500 releases are considered “orphan” sites, with no legally liable party, for which it is anticipated that the State of Michigan will be the only entity that will conduct remedial actions. It is estimated that the overall cost to the state to remediate these sites would be \$1.0 billion.

Under the MUSTFA program from 1988 to 1995, the DEQ made reimbursement payments directly to owners and operators of leaking USTs. However, once the program became insolvent due to the high volume of claims, the state would no longer accept any additional claims and the fee revenues were then used only for reimbursements for claims received prior to June of 1995 and to pay for the principal and interest on MUSTFA Authority bonds.

After the Refined Petroleum Fund was created in 2004, the cleanup use of the 7/8th-cent fee revenue was shifted from being primarily for the reimbursement of owners and operators of USTs to the direct financing of orphan site remediation for which the state had assumed responsibility. One exception to this, however, was a short-term program, the Temporary Reimbursement Program (TRP), which was established in PA 318 of 2006 and allowed a limited number of applicants involved in the earlier MUSTFA program to be reimbursed for LUST cleanups. Under the TRP, approximately \$29.0 million was allocated for the reimbursement of corrective actions at 554 sites. Statutory changes in 2004 allowed RPF funding to begin to be expended in the Agriculture budget as well.

The recently-enacted Public Act 416 of 2014, however, now requires that the first \$20.0 million collected from the 7/8th-cent per gallon environmental protection regulatory fee be deposited into the new Underground Storage Tank Cleanup Fund to be used to pay approved claims submitted by owners and operators of USTs for the costs of corrective actions. The remainder of the revenues are to be deposited into the existing RPF.

Table 1 below presents an historical overview of significant milestones of the RPF and LUST programs.

Table 1
Refined Petroleum Fund/LUST Program Historical Timeline
(1988 through 2014)

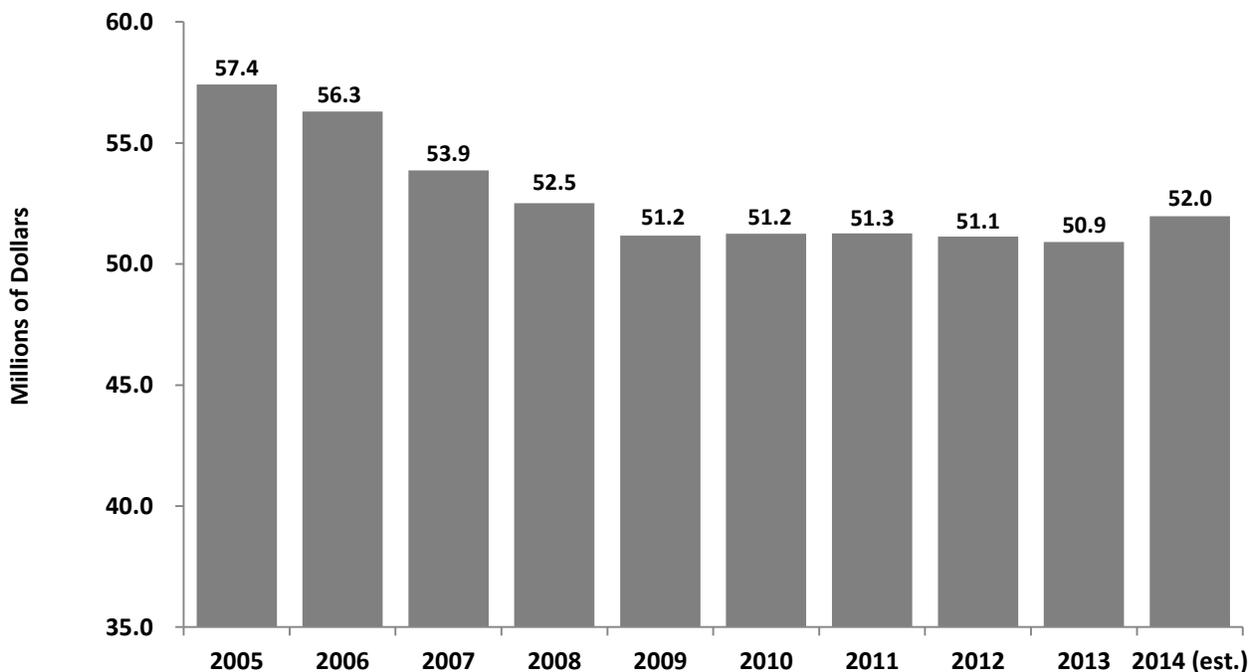
<u>Year</u>	<u>Milestone</u>
1988	<ul style="list-style-type: none"> ➤ Michigan Leaking Underground Storage Tank Act (LUST) enacted (PA 478 of 1988) ➤ Michigan Underground Storage Tank Financial Assurance Act (MUSTFA) enacted (PA 518 of 1988)
1989	<ul style="list-style-type: none"> ➤ 7/8th-cent fee begins to be collected (PA 152 of 1989)
1993	<ul style="list-style-type: none"> ➤ RPF 7/8th-cent fee sunset extended from 1995 to 2000 (PA 1 of 1993) ➤ MUSTFA Authority created (PA 132 of 1993); Act did following: <ul style="list-style-type: none"> -extended fee sunset from 2000 to 2005 -allowed MUSTFA Authority to issue revenue bonds -allowed revenue to be used to service MUSTFA bonds ➤ Established December 22, 1998 as final date for MUSTFA claims to be accepted (PA 212 of 1993) ➤ MUSTFA issued \$215.0 million in revenue bonds to fund cleanups
1995	<ul style="list-style-type: none"> ➤ PA 518 of 1988 repealed and provisions moved to Part 215 of PA 451 of 1995, NREPA (PA 269 of 1995) ➤ Treasurer declares MUSTFA Fund insolvent ➤ DEQ stopped accepting MUSTFA claims (June 29, 1995)
2004	<ul style="list-style-type: none"> ➤ Refined Petroleum Fund created (PA 390 of 2004) ➤ Act did following: <ul style="list-style-type: none"> -transferred remaining funding in the MUSTFA Fund to the RPF -extended fee sunset to 2010 -allowed Department of Agriculture to expend RPF
2006	<ul style="list-style-type: none"> ➤ Temporary Reimbursement Program authorized (PA 318 of 2006)
2007	<ul style="list-style-type: none"> ➤ \$70.0 million RPF transferred to the Environmental Protection Fund for debt service
2012	<ul style="list-style-type: none"> ➤ RPF fee sunset is extended to 2015 ➤ UST Program reformed ➤ Underground Storage Tank System Cleanup Advisory Board established
2013	<ul style="list-style-type: none"> ➤ UST System Cleanup Advisory Board releases report
2014	<ul style="list-style-type: none"> ➤ PA 416 of 2014 revised RPF program <ul style="list-style-type: none"> -established UST Cleanup Fund and UST Authority -required first \$20.0 million fee revenue be deposited into new fund -eliminated sunset on 7/8th-cent fee -allowed Michigan Finance Authority to issue bonds or notes for qualified clean-up claims from owners/operators

Since the RPF was established, the majority of funding for direct cleanups is appropriated in one specific line item within the DEQ appropriations budget bill, the Refined Petroleum Product Cleanup Program. This line item specifically funds contractual support for the remediation of contaminated UST sites for which the state has assumed responsibility. In the FY 2014-15 appropriations bill, PA 252 of 2014, there is \$53.6 million in RPF funding appropriated to the DEQ. Of this amount, the Refined Petroleum Product Cleanup Program line item receives \$32.9 million, which is the largest amount of RPF funding appropriated to one program in the budget.

Refined Petroleum Fund Revenues

As mentioned above, the primary source of revenue for the RPF is the environmental protection regulatory fee of 7/8th of a cent per gallon of refined petroleum products. Over the past five years, the fee has generated an average of \$51.3 million in revenues annually. During the last ten years, the fee revenue, in general, has been steadily declining. In FY 2013-14, it is anticipated that the fee will generate approximately \$52.0 million - which is \$5.4 million less than the \$57.4 million generated ten years earlier in FY 2004-05. Table 2 below presents a 10-year history of the amount of revenues deposited into the RPF. It is anticipated that the fee will continue to generate between \$51.0 million and \$52.0 million in the next few years.

**Table 2
Refined Petroleum Fund Revenue
FY 2005 - 2014**



Statutory Restrictions on RPF Expenditures

According to the currently enacted statute, the revenue in the RPF may be used to fund a LUST cleanup program within the DEQ, administrative costs of the DEQ in administering the RPF and implementing Part 213 of NREPA (LUSTs), and for other purposes the Legislature determines. Funding is also allowed for the gasoline inspection programs within MDARD, but only until December 31, 2016. The relevant portions of the statute are as follows:

MCL 324.21506a.

(4) Money from the refined petroleum fund shall be expended, upon appropriation, only for 1 or more of the following purposes:

- (a) Corrective actions performed by the department pursuant to section 21320.
- (b) The reasonable costs of the department in administering the refined petroleum fund and implementing part 213.
- (c) Until December 31, 2016, for gasoline inspection programs under both of the following:
 - (i) The weights and measures act, 1964 PA 283, MCL 290.601 to 290.635.
 - (ii) The motor fuels quality act, 1984 PA 44, MCL 290.641 to 290.650d.
- (d) Other purposes as determined by the legislature.

Fund Appropriation History

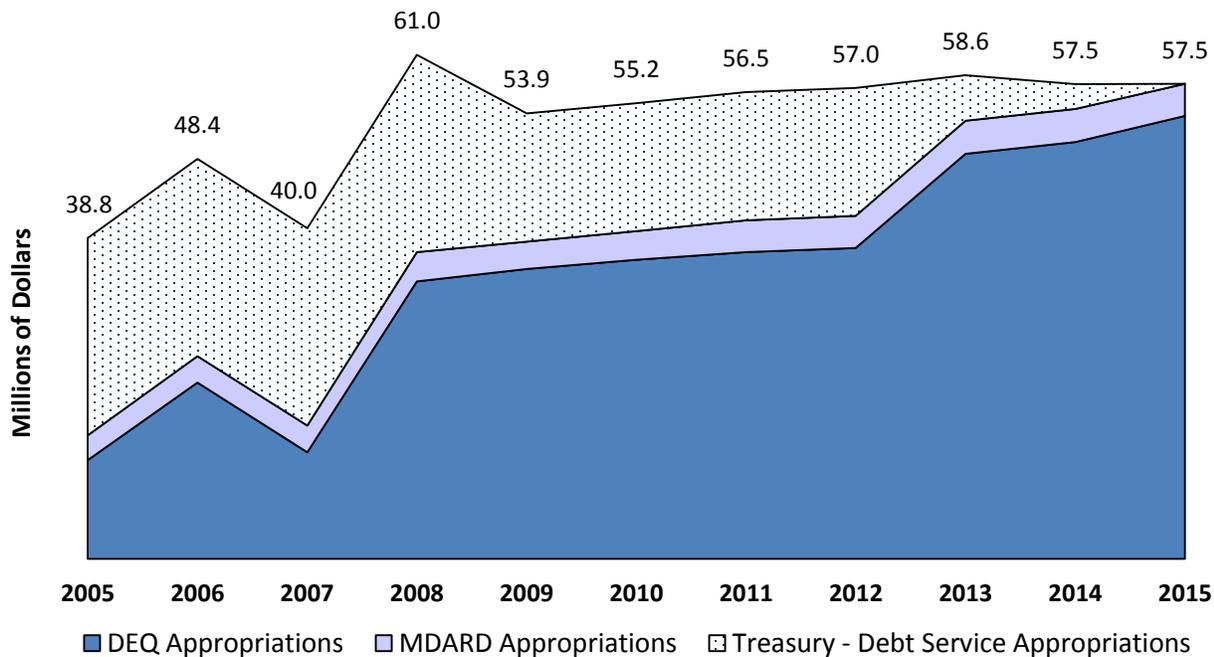
Since the RPF's establishment in 2004, appropriations have been made from the fund to three different departments: DEQ, MDARD, and Treasury. RPF expenditures within the Treasury budget have funded debt service payments for two environmental state bond programs: the Quality of Life Bond and the Clean Michigan Initiative. MDARD appropriations have been expended for administration costs, rent and building occupancy charges (BOC), and laboratory costs, in addition to funding two refined petroleum consumer protection programs: the Weights and Measures Program and the Motor Fuel Quality Program.

During this time period, the DEQ budget has received the largest amount of appropriations from the RPF. Besides the FY 2005-06 Temporary Reimbursement Program mentioned above, the fund has been appropriated to finance various line items and programs within the DEQ. The program receiving the biggest share of appropriations has been the Refined Petroleum Product Cleanup Program which mainly finances the cleanup of LUSTs on orphan sites for which the state has assumed responsibility. It is important to note, however, that in years in which the RPF has not generated enough revenue to fund all of the appropriations within these three departments' budgets, funding expenditures for the RPF Cleanup Program were often held below the amount appropriated. The RPF has also supported DEQ administration, cleanup program staff, the Air Quality Program, and the Drinking Water Program, among other areas.

In FY 2006-07, in order to free up more General Fund/General Purpose (GF/GP) funds to help balance the overall state budget, the Legislature enacted PA 67 of 2007 which authorized a one-time transfer of \$70.0 million from the RPF to the Environmental Protection Fund (EPF). Since the EPF has fewer statutory restrictions on its use, the \$70.0 million in funding transferred to the EPF was then used to pay debt service on the state's general obligation bonds which, in turn, freed up \$70.0 million of GF/GP funding that could be used elsewhere in the state budget.

Figure 3 below presents the total amount of RPF funding that has been appropriated each year to these three departments from the fund's first active year in FY 2004-05 through the enacted appropriations for FY 2014-15.

Figure 3
Refined Petroleum Fund Appropriations
FY 2005 - 2015



As Figure 3 shows, the annual RPF funding for MDARD programs has consistently ranged between \$3.0 million and \$4.0 million throughout the fund’s history. On the other hand, after FY 2006-07, funding for the DEQ budget has steadily increased each year – from \$12.9 million in FY 2006-07 to \$53.6 million in FY 2014-15. The sharp dip and then steep increase in appropriations between FY 2005-06 and FY 2007-08 represents the appropriation of the \$45.0 million one-time funding for the TRP in FY 2005-06 and then the transfer of \$70.0 million to the EPF during FY 2005-06 and FY 2006-07. This transfer helped decrease the level of DEQ appropriations to \$12.9 million in FY 2006-07. In the following year, FY 2007-08, because no transfer occurred, the appropriation level rose to \$33.6 million.

While the RPF funding in the DEQ budget has steadily increased during this time period, funding for debt service in the Treasury budget has slowly decreased. For the first four years of the fund, FY 2004-05 through FY 2007-08, \$23.9 million RPF funding was appropriated for debt service payments within the Treasury budget. Beginning in FY 2008-09, this funding was further reduced by \$8.4 million and only \$15.5 million RPF was appropriated. In FY 2012-13, that amount was reduced to \$5.5 million and, by FY 2014-15, the RPF funding was eliminated altogether. In FY 2012-13 and FY 2013-14, the amount of RPF funding that was decreased in the Treasury budget was added to the DEQ RPF Cleanup Program which helped to cause the sharp increase in RPF funding within the DEQ budget during those years, as shown in Figure 3 above.

Table 3 below presents the history of RPF appropriations by line item within the DEQ, MDARD, and Treasury budgets from FY 2004-05 through FY 2014-15. Three major funding changes depicted in the table to note are:

- the transfer of \$70.0 million from the RPF to the EPF that are recorded in FY 2005-06 and FY 2006-07
- the gradual decline and eventual elimination of the fund’s use for debt service payments in Treasury
- the increase of funding to the direct cleanup line item which is entitled the Refined Petroleum Product Cleanup Program.

Table 3
Refined Petroleum Fund Appropriations History
(FY 2005 - FY 2015)

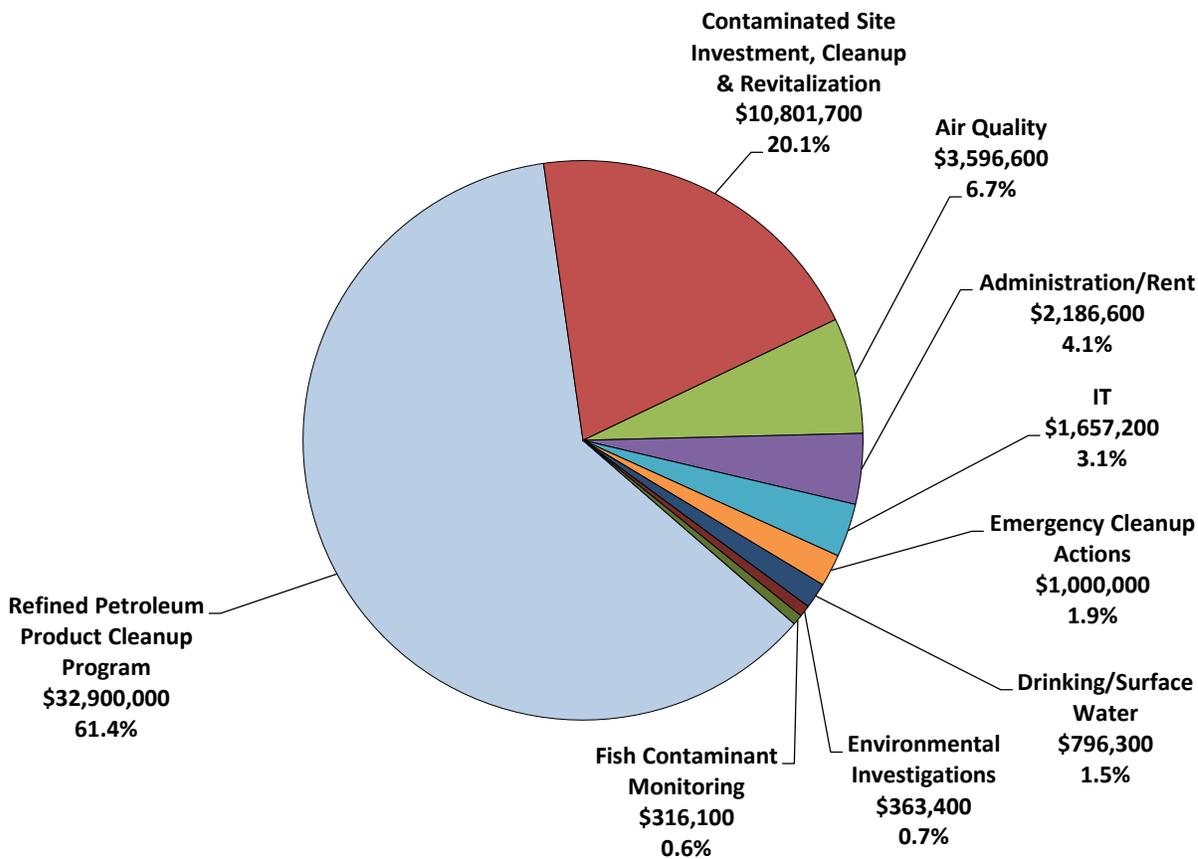
Line Item Appropriation	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
<u>Environmental Quality</u>											
Refined Petroleum Product Cleanup		57,000,000	22,000,000	20,000,000	20,000,000	20,000,000	20,000,000	20,000,000	30,000,000	32,500,000	32,900,000
<i>(Transfer to EPF)</i>		(42,000,000)	(22,000,000)								
Refined Petroleum Initial Program		45,000,000									
<i>(Transfer to EPF)</i>		(6,000,000)									
Contaminated Site Investment, Cleanup & Revitalization (Includes RPF Staff)	4,200,000	4,319,000	4,600,700	5,790,900	5,813,500	5,932,700	7,263,300	7,602,800	7,861,500	8,075,400	10,801,700
Other	7,721,000	8,008,800	8,282,600	7,813,000	9,269,100	10,275,300	9,860,900	10,039,600	11,176,100	9,889,900	9,916,200
Total DEQ	\$11,921,000	\$66,327,800	\$12,883,300	\$33,603,900	\$35,082,600	\$36,208,000	\$37,124,200	\$37,642,400	\$49,037,600	\$50,465,300	\$53,617,900
<u>Agriculture and Rural Development</u>											
Management Services		221,500	218,025	239,800	50,400	54,700	57,800	57,800	58,700	58,700	58,700
Rent / Building Occupancy Charges		114,000	114,000	114,000	114,000	114,000	257,200	257,200	261,600	261,600	161,600
Laboratory Services			137,900	227,500	231,800	284,800	405,000	405,000	430,100	230,100	230,100
Consumer Protection Program	3,000,000	2,855,600	2,763,511	2,939,100	2,942,800	3,001,400	3,150,900	3,150,900	3,261,600	3,461,600	3,461,600
Total MDARD	\$3,000,000	\$3,191,100	\$3,233,436	\$3,520,400	\$3,339,000	\$3,454,900	\$3,870,900	\$3,870,900	\$4,012,000	\$4,012,000	\$3,912,000
<u>Treasury - Debt Service</u>											
Quality of Life Bond	20,341,000	20,341,000	20,341,000	20,341,000	15,514,500	15,514,500	15,514,500	15,514,500	5,514,500	3,014,500	0
Clean Michigan Initiative	3,573,500	3,573,500	3,573,500	3,573,500							
Total Treasury	\$23,914,500	\$23,914,500	\$23,914,500	\$23,914,500	\$15,514,500	\$15,514,500	\$15,514,500	\$15,514,500	\$5,514,500	\$3,014,500	\$0
From Transfer to EPF			70,000,000								
Total Debt Service	\$23,914,500	\$23,914,500	\$93,914,500	\$23,914,500	\$15,514,500	\$15,514,500	\$15,514,500	\$15,514,500	\$5,514,500	\$3,014,500	\$0
Total State-Wide Appropriations	\$38,835,500	\$93,433,400	\$110,031,236	\$61,038,800	\$53,936,100	\$55,177,400	\$56,509,600	\$57,027,800	\$58,564,100	\$57,491,800	\$57,529,900

FY 2014-15 Fund Appropriations

Beginning in FY 2014-15, the RPF is appropriated in the budgets of only two departments, DEQ and MDARD. In FY 2014-15, a total of \$53.6 million in RPF revenues is appropriated in the DEQ budget, which represents an increase of \$3.1 million from the previous year. Of this amount, \$32.9 million funds the Refined Petroleum Product Cleanup Program and \$10.8 million is allocated for the cleanup programs' staffing costs (Contaminated Site Investigation, Cleanup, and Revitalization line item). Figure 4 below details the total amount of RPF appropriations in the FY 2014-15 DEQ budget by program area.

**Figure 4
DEQ Refined Petroleum Fund Appropriations
FY 2014-15**

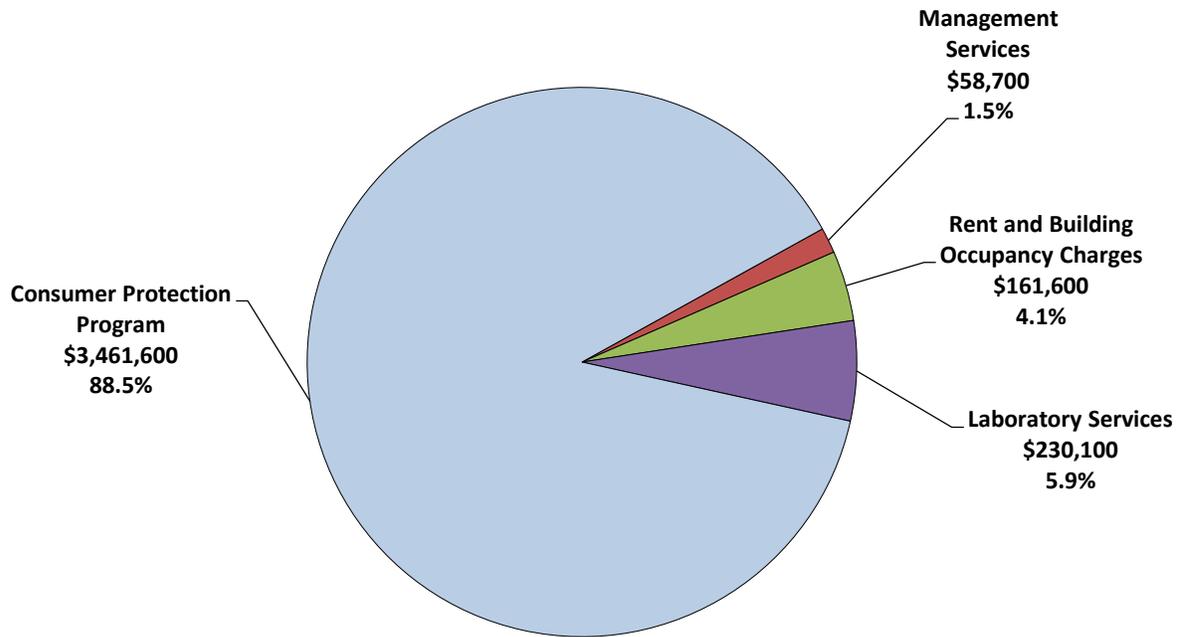
Total = \$53,617,900



In the FY 2014-15 MDARD budget, \$3.9 million RPF funding is appropriated for four program areas, a decrease of \$100,000 from the previous year. The largest amount of funding, \$3.5 million, is dedicated to the refined petroleum Consumers Protection Programs of Weights and Measures and Motor Fuel Quality. Figure 5 presents the total amount of RPF appropriations in the FY 2014-15 MDARD budget by program area.

Figure 5
MDARD Refined Petroleum Fund Appropriations
FY 2014-15

Total = \$3,912,000



Outlook for RPF
Future Revenues and Expenditures

The RPF receives approximately \$51.0 million to \$52.0 million annually from the 7/8th-cent regulatory fee. This level of generated revenue is anticipated to remain fairly constant over the next few upcoming years. In recent years, the fund has been over-appropriated throughout departmental budgets, meaning that more expenditures are authorized in the budget bills than is received in revenues generated by the fee. In FY 2014-15, the RPF is expected to receive \$52.0 million in fee revenue, but there is \$57.5 million appropriated within the DEQ and MDARD budgets for that year. While the fund continues to carry a fund balance each year – at the end of FY 2013-14, the balance is anticipated to be \$63.7 million – according to the DEQ, this funding is needed for prior-year encumbrance balances and already-determined work projects.

With no fund balance available to use to make up the difference between revenues and appropriations, expenditures must be lower than the appropriated amounts; this usually occurs mainly in the direct RPF cleanup line item each year. Without further reductions in other DEQ programs that use RPF revenues, this situation will likely be continued and less direct cleanups will be completed than the original amount of funding appropriated in the DEQ budget would have financed.

Along with other UST program reforms, the Legislature enacted PA 113 in 2012 which required the DEQ to establish an Underground Storage Tank System Cleanup Advisory Board consisting of UST owners and operators and others with UST knowledge and expertise. The Board was required to issue a report containing a recommendation for a cleanup program funded by the RPF that would assist owners and operators in financing corrective actions. The report was issued on March 1, 2013 and recommended that, in the future, all of the RPF revenues be restored to fund the DEQ's UST programs to accomplish the following:

- Provide a financial responsibility program for owners and operators to address future releases
- Fund a reimbursement program to assist qualified owners and operators with corrective actions on historical release sites
- Conduct corrective actions at orphan LUST sites

In December 2014, Public Act 416 of 2014 was enacted which instituted many of the recommendations listed in the Board's report, such as the establishment of the new Underground Storage Tank Cleanup Fund which will now receive the first \$20.0 million of the revenue from the 7/8th-cent fee. That funding will be expended to pay approved claims submitted by owners and operators of USTs for the costs of LUST cleanup actions - another recommendation of the Board. Under the new statutory changes, the revenues from the 7/8th-cent fee will now be used to fund corrective actions taken by the DEQ for orphan sites, as well as directly reimburse qualified owners and operators for any eligible cleanup costs. In addition, Public Act 416 allows the Michigan Finance Authority to issue bonds or notes to finance payments of approved UST claims. The UST Cleanup Fund would be used to pay the principle and interest of these bonds.

It is expected that the 7/8th-cent fee, as currently enacted, will only generate approximately \$51.0 to \$52.0 million each year going forward. Absent further funding mechanisms, this amount, plus any possible future bond proceeds, will be the funding that will be available annually to address the remaining 8,500 UST releases that currently exist in the state.

* * *

NOTE: This report was written by Viola Bay Wild, Senior Fiscal Analyst. Questions may also be directed to the current Fiscal Analyst for the Department of Environmental Quality, Austin Scott. Kathryn Bateson, Administrative Assistant, prepared the report for publication.