



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270

September 28, 2020

Mr. Samuel Short  
Director  
Air Permits Division (MC-163)  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

RE: Clean Air Act (CAA) Title V Permit Program, State of Texas Fee Audit for Fiscal Year 2020

Dear Mr. Short:

As part of our oversight responsibilities under the CAA, the United States Environmental Protection Agency (EPA) has completed a review and evaluation of fees collected and used specific to the Title V permit program, administered for the state of Texas by the Texas Commission on Environmental Quality (TCEQ). EPA sent a list of audit questions and requested specific documentation to be provided by TCEQ for our review on December 19, 2019. TCEQ responded on February 20, 2020. In addition, the EPA appreciates TCEQ providing supplemental information on September 3, 2020 that was requested by email on August 26, 2020.

We commend the TCEQ on the overall implementation demonstrated in the area of revenue and expense tracking for the State of Texas's Title V federal operating permit program. If you have any questions, please do not hesitate to call me or Jeff Robinson of my staff at (214) 665-6435.

Sincerely,

9/28/2020

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David F. Garcia, P.E.

Signed by: DAVID GARCIA

Director  
Air and Radiation Division

Enclosures

**Environmental Protection Agency Region 6  
Review of the Texas Commission on Environmental Quality  
Title V Fee Program**

**(September 2020)**

## Background

The United States Environmental Protection Agency (EPA) has oversight responsibilities under the Clean Air Act (CAA) which include periodic evaluations by each regional office of each state partner's respective title V operating permit program. In October 2019, we notified the Texas Commission on Environmental Quality (TCEQ) that EPA would conduct a fiscal year (FY) 2020<sup>1</sup> Title V program audit for the State of Texas. We limited the scope of the FY 2020 Title V program audit to an evaluation of fee revenue collected and managed to cover the costs of the TCEQ's title V permit program<sup>2</sup>. This FY 2020 audit also includes an assessment on whether the systems used by TCEQ are adequate to track and account for the collection, retention, management of revenue, and payment of expenses for their title V permit program.

The Federal requirements regarding title V fee determination and certification are found in 40 CFR § 70.9. The *Fee requirement* provisions at 40 CFR § 70.9(a) "require that owners or operators of part 70 sources pay annual fees... that are sufficient to cover the permit program costs and shall ensure that any fee required by this section will be used solely for permit program costs." The *Fee schedule adequacy* at 40 CFR § 70.9(b)(2) states, "The Administrator will presume that the fee schedule meets the requirements of paragraph (b)(1) of this section if it would result in the collection and retention of an amount of not less than \$25 per year [as adjusted pursuant to the criteria set forth in paragraph (b)(2)(iv) of this section] times the total tons of the actual emissions of each regulated pollutant (for presumptive fee calculation) emitted from part 70 sources and any GHG cost adjustment required under paragraph (b)(2)(v) of this section."

EPA Region 6 sent a list of questions related to the FY 2020 title V fee program to the TCEQ by email dated December 19, 2019. The questions were divided among the following general areas: (1) Current Title V Resources; (2) Fees Calculated; (3) Collections Tracked; (4) Billing Process; (5) Revenue Allocated; (6) Cost of "Effective" Program (Resources to Address Backlog / Renewals); and (7) Split of 105 vs. Title V. EPA Region 6 received a timely response to the questionnaire from TCEQ on February 20, 2020, along with supporting documentation. We also sent TCEQ clarifying questions on August 26, 2020 and received their responses on September 3, 2020. We appreciate TCEQ's cooperation and prompt responses during EPA's review.

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1 EPA's fiscal year starts on October 1<sup>st</sup> of one calendar year and runs through September 30<sup>th</sup> of the next calendar year (e.g., 10-01-2019 thru 09-30-2020). TCEQ's fiscal year starts on September 1<sup>st</sup> and runs through August 31<sup>st</sup> of the next calendar year (e.g., 09-01-19 thru 08-31-2020).

2 EPA is currently working closely with TCEQ on substantive programmatic changes to their Title V permit program, due to specific petition and permit objectives being addressed during this FY.

## **1. Current Title V Resources**

EPA reviewed the current Texas Health and Safety Code (THSC) § 382.062, which authorizes fees for application, permit and inspection under the Texas Clean Air Act<sup>3</sup>. TCEQ referenced Title 30 of the Texas Administrative Code (TAC) § 101.27 that defines the schedule and administrative processes for the emission fees<sup>4</sup>. Since 2011, the revised rules for 30 TAC § 101.27 allow for flexibility to adjust the baseline emissions annually to ensure adequate funding of the title V program (see also response in the next section, *Fee Calculated*, and Figure: 30 TAC §101.27(f)(1)). Air inspection fees are administered separately through 30 TAC § 101.24. Companies may also request expedited permit processing pursuant to 30 TAC § 101 Subchapter J for Federal Operating Permits, Permits by Rule, and Air Pollution Permits for New Construction or Modification. Per 30 TAC § 101.601(a), “The executive director may add a surcharge for an expedited application filed... in an amount sufficient to cover the expenses incurred by expediting it, including overtime, full-time equivalent commission employees, contract labor, and other costs.”

The TCEQ recently underwent improvements to their accounting system for title V facilities in FY 2018 to streamline the input and accounting of fees associate with the title V program. Previously, manual adjustments were required to transfer fees generated from title V inspections to the appropriate account for title V fees. EPA was able to verify that title V revenues are currently accounted for by employing the “AEF” fee code for air emissions, as well as, utilization of dedicated account #5094 – Operating Permit Fees.

At the time of response, TCEQ noted that there were 1,568 active title V permits in the State of Texas with approximately 95% up for renewal by December 31, 2025. TCEQ estimates that they receive an average of 33 initial or revision projects per month.

**Summary:** The systems in place appear to be reliable and accurate for the purposes of tracking and accounting for title V revenue and related title V program support.

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<sup>3</sup><https://texas.public.law/statutes/tex. health and safety code section 382.062>

<sup>4</sup>[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=30&pt=1&ch=101&rl=27](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=30&pt=1&ch=101&rl=27)

<b>Account 5094 Title V Operating Permits</b>			
	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Revenue</b>	\$ 39,192,526	\$ 40,984,696	\$ 40,783,443
<b>Expenditures</b>	\$ 37,923,725	\$ 35,645,767	\$ 39,976,832

*Source: TCEQ Annual Financial Reports for FY 2017, 2018, 2019*

## **2. Fees Calculated**

TCEQ provided examples of fee calculations based on emissions inventory data, along with sample inventory requests that are mailed to each account owner or operator annually. Air emissions fees are based on the sum total tons of pollutants emitted during the last full calendar year. The authority to collect air emissions fees is under THSC § 382.0621 and the administration of the fees is under TAC § 101.27. Companies self-report the fee basis for emissions and inspections under 30 TAC § 101.027 – Emissions Fees, which are then billed by the TCEQ. Per 30 TAC §101.027(a), “An account subject to both an emissions fee and an inspection fee, under §101.24 of this title (relating to Inspection Fees), is required to pay only the greater of the two fees.” The basis for fees is based on allowable and/or actual emissions per 30 TAC §101.027(f)(1) and (2).

Figure: 30 TAC §101.27(f)(1)

<b>Emissions Fee Schedule</b>		
<b>Fiscal Year</b>	<b>Rate Per Ton</b>	<b>Minimum Fee</b>
1992	\$3	
1993	\$5	\$25
1994	\$25	\$25
1995 - 2002	\$26	\$26

For Fiscal Year 2003 through Fiscal Year 2011, the rate per ton must be calculated using the following formula. The minimum fee must be equal to the rate per ton.

$$\text{Rate per ton} = \$25.00X(1 - CO)X(CPI/122.15)$$

For Fiscal Year 2012 and subsequent years, the rate per ton must be calculated using the following formula. The minimum fee must be equal to the rate per ton.

$$\text{Rate per ton} = \$AdjBaseRateX(CPI/122.15)$$

Where:

**AdjBaseRate** = an adjustable base rate, equal to \$25 for Fiscal Year 2012, and adjusted annually, as necessary, thereafter between \$25 and \$45;

**CO** = carbon monoxide fraction of the fee basis, for all emissions fee payers for the previous fiscal year;

**CPI** = average of the consumer price index for the 12 months preceding the fiscal year that a fee is being assessed (as published by the United States Bureau of Labor Statistics, CPI - All Urban Consumers, Not Seasonally Adjusted, base period 1982 - 84 = 100); and

**122.15** = average consumer price index for Fiscal Year 1989 (as published by the United States Bureau of Labor Statistics, CPI - All Urban Consumers, Not Seasonally Adjusted, base period 1982 - 84 = 100).

TCEQ further noted that “Per 30 TAC 101.027 under no circumstances may the fee bases be less than the actual emissions for the site.” As stated in the FY2020 Fee Basis Form<sup>5</sup> and verified in the FY2020 Fee Basis Window, TCEQ requires customers to quantify three discrete categories of actual emissions: Routine; Scheduled Maintenance, Startup, and Shutdown (SMSS); and Emission Events (EE). Upon receipt from the company, the fee basis information is subject to a detailed review and verified by TCEQ.

**Summary:** EPA reviewed the information to determine how fees were calculated by companies and billed by TCEQ. The fee calculations were billed in accordance with the state procedures. It appears the fee charges are adequate to sustain TCEQ’s title V program.

### **3. Collections Tracked**

Payments are submitted via the State’s general ledger system before being processed by TCEQ’s Accounts Receivables (AR) system subledger, BASIS2. To ensure accurate processing, customers are required to submit the coupon from TCEQ’s billing statement along with payment. Each customer has a unique AR accounts number and receipts are embedded with the AR accounts number. As of January 2020, TCEQ estimated their collection rate as 98.93% for FY2020.

**Summary:** EPA determined sources are paying total amount due including late fees. TCEQ has a very low percentage of outstanding accounts. This is an adequate system to track collections, assess late fees and payment.

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<sup>5</sup> <https://www.tceq.texas.gov/assets/public/implementation/air/ie/pseiforms/2020feebasisform.pdf>

#### **4. Billing Process**

Based on the invoices provided by TCEQ, EPA verified the calculated air emissions fee and determined that the fees collected are the same as the billed amounts. The STARS system is the repository for billing files generated by the program division (in this instance, Air), which are then reviewed by the TCEQ finance division. TCEQ notes that “if there are no errors, finance uploads the STARS file data in the agency accounts receivable system.” Billing is processed each month: the Air program submits billing files to the Financial Administration Division around the tenth of the month, which are then printed around the fifteenth of the month. Invoices are mailed to customers around the twenty-third of each month to allow time for the mailed statement to be received no later than the thirtieth day of the month. Customers are provided thirty days to remit payment to TCEQ and, once an account is thirty days past due, an additional late fee of 5% is assessed.

**Summary:** TCEQ has an effective system in place with redundancy between the program and finance divisions to minimize errors in emissions fees billing.

#### **5. Revenue Allocated**

TCEQ provided a report with account balances and facility codes for air emission fees specific to the CAA Title V permitting program as requested. The agency relies on estimates to establish the budgets, which are then allocated and disbursed by the budget department to support the specific programs. Similarly, other operating costs like travel, training, supplies and other purchases specific to Title V permitting are also estimated by the program.

TCEQ also provided example timesheets and travel/training vouchers for the air permits unit.

**Summary:** TCEQ does budget for the title V program; however, the budget relies heavily on estimates.

#### **6. Cost of “Effective” Program (Resources to Address Backlog/Renewals)**

The TCEQ assess and collects two fees annually, the air emissions fee and the air inspection fee. If a site is subject to both the emissions and inspections fee, only the higher of the two fees is assessed. The air emission fee is based on tons of pollution emitted in the last full calendar year. The air inspection fee is based on the Standard Industrial Classification (SIC) code at the facility. TCEQ’s authority to collect air emissions fees is found under THSC § 382.062 and the administration of the fees is found under TAC § 101.27. Companies self-report the fee basis for emissions and inspections under 30 TAC § 101.027 – Emissions Fees, which are then billed by the TCEQ. Additionally, there is an expedited process fee for title V permits. TCEQ reports that “as expedited processing fee receipts are deposited, the monies are split between two separate Program Cost Accounts for maintaining a distinction between the receipt amount and the administrative surcharge. Customers pay an estimated expedited amount up front along with the non-refundable administrative surcharge. After the expedited permit has been issued, the actual cost is determined and the customer is refunded the

difference in overpayment from the non-administrative surcharge program cost account.”

In the February 20, 2020 response, TCEQ provided revenue receipts and expenditure reports for FY17, FY18, and FY19, along with the respective title V operating budget estimates. TCEQ clarified that “accounts receivables is the total amount invoiced and recorded as received for the fiscal year. The AR amount is not reduced by un-collectable amounts associated with that billing cycle and exclude late fees received and receipt deposits from previous years...” Expenses do not appear to be in excess of revenue received by air emissions and air inspection fees. In FY17, FY18 and FY19, TCEQ reported positive account balances for account #5094, Operating Permit Fees Fund.

TITLE V PERMITTING PROGRAM				
Fiscal Year	Air Emissions Receipts	Air Inspection Receipts	Total Title V Revenue	Annual Expenses
FY17	38,033,568	N/A	38,033,568	37,923,724
FY18	36,323,563	5,919,850	42,243,413	35,645,767
FY19	34,590,328	6,186,105	40,776,433	39,976,831

On September 3, 2020, TCEQ provided the following table with quantitative data for revenue versus expenses from the TCEQ Annual Financial Reports (included below). Revenue reported in the Annual Financial Reports includes deposits from prior years and late fees, but does not include un-collectable amounts. The revenue reported is consistent with other information provided on February 20, 2020.

	Account 5094 Title V Operating Permits		
	FY 2017	FY 2018	FY 2019
<b>Revenue</b>	\$ 39,192,526	\$ 40,984,696	\$ 40,783,443
<b>Expenditures</b>	\$ 37,923,725	\$ 35,645,767	\$ 39,976,832

*Source: TCEQ Annual Financial Reports for FY 2017, 2018, 2019*

Since 2014, TCEQ air permits has had departures of approximately seven (7) FTEs, and at present the air program is not fully staffed. TCEQ utilizes encumbrances to reserve “funds that represent obligations or projected commitments for goods or services” and provided the following information related to title V obligations and encumbrances for FY17, FY18, and FY19:

FY	Encumbrances
2017	-
2018	136,304
2019	2,423,660
Total	2,104,888

**Summary:** 40 CFR § 70.9 requires that the State program has a fee schedule that results in the collection and retention of revenues sufficient to cover the permit program costs. EPA notes that TCEQ has clearly demonstrated the adequacy of the fee bases for the State of Texas. EPA recommends that TCEQ continue with the current title V fee adjustments as appropriate to ensure that adequate funds remain available to its annual costs.

### **7. Split of 105 vs. Title V**

Revenues – EPA was able to verify that Title V revenues were accounted for separately from non-Title V by the utilization of dedicated account #5094 – Operating Permit Fees.

Expenditures – TCEQ tracks all Title V activities conducted by various organizational units through the dedicated account #5094. EPA was able to identify this code on procurement documents, travel and training, timesheets and FTE estimates. However, costs associated with the expedited permit application were not available for review.

**Summary.** The *Fee requirement* provisions at 40 CFR § 70.9(a) “require that owners or operators of part 70 sources pay annual fees... that are sufficient to cover the permit program costs and shall ensure that any fee required by this section will be used solely for permit program costs.” Texas is separating title V revenues from other program fees, including Section 105 matching grants. TCEQ uses both the “AEF” fee code and a dedicated account #5094 for purposes of clearly identifying and segregating title V funds.

### **Conclusion**

Based upon the information reviewed during the TCEQ title V fee audit, EPA Region 6 concludes that TCEQ is implementing its program in compliance with the fee requirement provisions in 40 CFR § 70.9. EPA confirmed that the fees collected are adequate to cover the title V permit program costs and are used exclusively to cover the title V permit program costs<sup>6</sup>. The state continues to be one of the leaders in the Region in regards to the processing and issuance of a large volume of title V operating permits, while effectively maintaining a fee revenue system that properly accounts for the collection, allocation, and retention of the title V

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<sup>6</sup> See 40 C.F.R. 70.9(a) as well as the EPA policy memorandum, “Reissuance of Guidance on Agency Review of State Fee Schedules for Operating Permits Programs Under Title V”, dated August 4, 1993 available at: <https://www.epa.gov/sites/production/files/2015-08/documents/fees.pdf>

fees. EPA encourages TCEQ to continue its existing accounting practices, and to verify the adequate collection of revenue and the allocation of those funds on title V permit program activities.

## **Appendix**

Appendix A. TCEQ Audit Response – 02/20/2020

Appendix B. TCEQ Response to EPA Follow-up Questions – 09/03/2020

Appendix A. TCEQ Audit Response – 02/20/2020

Appendix B. TCEQ Response to EPA Follow-up Questions – 09/03/2020

## Title V Administration and Fee Review

### Current Title V Resources

1. What section of your regulation defines the TCEQ's fee collection authority and rate(s)?

Operating Permit Fee (emissions fee) is authorized under the Texas Health and Safety Code (THSC) Section 382.0621. The emissions fee is administered through 30 Texas Administrative Code (TAC) Section 101.27, Emissions Fees.

Application, Permit, and Inspection Fees are authorized under THSC Section 382.062. The inspection fee is administered through TAC Section 101.24, Inspection Fees.

- a. Has the basis or amounts of any of these fees that were relied upon in the original title V program approval changed? Please describe.

Yes, the agency adopted rules revisions to 30 TAC Section 101.27 (Emissions Fees) in 2011 that provided the agency flexibility to adjust the baseline emissions fee rate to ensure adequate funding of the Title V program.

- b. Are there fees that have been adopted since the original title V program approval that are now relied upon to, at least in part, fund any aspect of the title V program? Please describe.

No; however, 30 TAC Chapter 101, Subchapter J allows an applicant to request the expedited processing of an application filed under 30 TAC Chapter 122. As part of this process, the agency requires a surcharge to cover the expenses incurred in the expedited processing of the permit application.

- c. Are any of the fees that can be used, even in part, to pay for title V purposes dedicated by law to non-title V program areas? Please explain.

No.

2. What is the projected number of permits subject to review to implement title V? Please discuss.

There are currently 1,568 active Title V permits in the State of Texas. 1,486 permits are up for renewal between now and December 31, 2025. There are 247 pending initial and revision projects that the TCEQ is currently working on. Since 2015, the TCEQ received on average 33 initial or revision projects per month.

3. Please describe how does TCEQ track title V expenses?

The agency allocates funding by a chart of accounts and has a unique account to identify program expenses. Title V expenses are coded to the General Revenue Dedicated

Account 5094 – Operating Permit Fees.

4. Please describe how does TCEQ track title V fee revenue?

As mentioned above, all Title V revenue is deposited to the General Revenue Dedicated account 5094 – Operating Permit Fees. The two Title V fee sources have a unique agency revenue object code but are deposited to the agency fund 5094. No fee revenue other than Title V fees are deposited to this account, agency revenue code, or agency fund.

5. Please provide a spreadsheet for FY 2017, FY 2018, and FY 2019 documenting TCEQ’s annual account receivables and TCEQ’s annual expenses for the title V permitting program. Are TCEQ’s current title V fees sufficient to support the title V program?

Reference attachment titled, “Item #5 Revenue vs Expenses”. Prior to 2018, TCEQ deposited Title V Air Inspection revenue in a separate account. Manual adjustments were processed for FY18 and FY19 to move the appropriate accounts as Title V and deposit the revenue to the credit of the General Revenue Dedicated account 5094 – Operating Permit Fees. Once the air system changes are made, manual adjustments each year will no longer be required. Title V fee revenue is sufficient to support the Title V program.

6. Provide a list of title V permittees and fee revenues generated from each of these permittees.

Reference the five attached files beginning with the title “Item #6”, which include FY17 – FY19 Air Emissions Receipts and FY18 – FY19 Air Inspection receipts.

7. Provide source bills for the last three months.

Reference three files attached with file names beginning in “Item #7...” for the months October through December. This report shows the amount that was uploaded into the agency’s AR system and billed to a given account number by facility code.

8. How many title V permit writers does the agency have on staff (number of FTE’s)?

Currently there are 21 Title V permit writers on staff at the TCEQ.

9. Do the permit writers work full time on title V or do they work on other items such as NSR permits?

The permit writers work full time on Title V.

- a. If not, describe their main activities and percentage of time on title V permits.
- b. Please describe very specifically how TCEQ tracks the time allocated to title V activities versus other non-title V activities?

The OP Section that houses the Title V reviewers code 100% of their review time, travel, purchases, and training to the Title V program cost account code (PCA). The PCA is then tracked and reported on weekly timesheets.

10. Are you currently fully staffed? Has your state legislature of the state budget process implemented a ceiling on your FTE staffing that results in the collection of more title V fees than your FTE staffing allocation is allowed by the state budget process?

The agency is not fully staffed. The FTE ceiling does not result in the collection of more Title V revenue than Title V program costs.

11. What is the ratio of permits to permit writers?

As mentioned above, there are currently 1,568 issued Title V permits in the State of Texas. This equates to approximately 75 issued Title V permits for every reviewer. Reviewers are working approximately 18 projects, including initials, revisions and renewals, at any given time.

12. Describe staff turnover and how do you minimize turnover?

There have been 7 separations from the Title V Section since September 1, 2014. TCEQ is implementing a retention bonus program to address increased turnover within the Engineering Specialist series. Employees classified as Engineering Specialist I, II, or III, who have twelve months of experience at TCEQ within a classified position, may be qualified to enter into a retention bonus agreement payable at the end of twelve months. If, at the end of the twelve-month period, the employee meets all of the outlined eligibility criteria the employee will be awarded \$5,000.00. Retention Bonuses do not impact the employee's ability to receive other salary enhancements. Further, the bonuses will be funded at the agency level and will not impact the division's salary enhancement funds. TCEQ also raised the minimum salary for the entry level position for the Engineering Specialist and Engineer series.

13. Describe your career ladder for permit writers?

Title V permit reviewers use one of two career ladder classifications: Engineer or Environmental Permit Specialist, depending on education, licensure and/or experience. The Engineer classification contains six levels and an additional competitive path level. The Environmental Permit Specialist classification has five levels and an additional competitive path level. Both classifications have their own time-in-grade and an increasing amount/complexity of experience required to progress up the ladder. Career ladder progression is accomplished through promotion. Promotions can only occur when a change in job duties warrants movement from one classification to a classification with a higher pay group. All salary actions are contingent upon funding availability. Career

Ladder progression is not automatic. The supervisor determines when an employee meets eligibility requirements. Time in grade is the minimum amount of experience in a classification level required for a career ladder promotion.

In order for an employee to receive a career ladder promotion, the employee must meet all of the criteria listed below:

- has acquired the additional knowledge, skills and abilities associated with the position to which they are advancing;
- has a current (no older than 12 months) Performance Plan, Appraisal, and Career Enhancement Plan for the employee's current classification level;
- has achieved at least an overall rating of "meets requirements" on the most current performance appraisal;
- has maintained a positive workplace behavior (as evidenced by no disciplinary or corrective action) and positive performance (no Performance Improvement Plan) during the past 12 months; and
- has met the time-in-grade requirements established by the ladder.

The Deputy Director may approve promoting an employee to a higher level on a career ladder before the time-in-grade requirement has been met if the employee meets minimum qualifications of the proposed level.

Requests for Career Path allocations must be approved by the Deputy Executive Director. Requests for additional career path allocations must be made in writing including justification based on business need. The request must be initiated by the Division Director through Deputy Director. Additionally, Human Resources and Staff Services may approve career path allocations when making classification determinations for both filled and vacant positions to ensure consistent and proper classification. All career path positions must be competitively posted, unless an exception has been granted by the Deputy Executive Director. Competition shall be limited to no less than the division level. If a career path position is swept, the allocation is also eliminated.

14. Do you have the flexibility to offer competitive salaries to hire and retain staff?

The TCEQ administers salaries in accordance with the State Position Classification Act and Classification Salary Schedules, which are approved biennially by the Texas Legislature. TCEQ complies with all state salary administration laws and procedures. To retain staff, TCEQ administers additional compensation to those employees who are eligible and meet the criteria for one-time recruitment payments, one-time retention payments, merit salary increases, and one-time merit payments.

15. Can you hire experienced people with commensurate salaries?

Variable. At times, we are able to post a salary range and can make an offer dependent on experience.

16. Describe the type of training provided to your new and existing permit writers.

In addition to the TCEQ core training for employees, new hire training consists of an introduction to the following topics (some of which are specific to the TCEQ's Title V Information Management System database:

1. Overview of online training resources and ShareNet web navigation
2. Overview of TV Permits
3. Overview of State & Federal Rules
4. SOP permit document – structure and contents
5. NSR versus SOP permits – purpose, types, comparison
6. NSR permits – effective and issuance dates
7. TV permitting process (inputs, process & output)
8. TV OP Form Types & Purpose – unit specific, site specific and certifications;
9. Integrated Management System (IMS) overview
10. Debugging hollow SS, IMS consistency check
11. How to effectively utilize the support environment for generating TV Permits:
  - a. BOEXI reports, APD-MENU, Central Registry, OCC web site, internal and external TV guidance documents
  - b. RRT (rules, flowchart, CES, RES, UA forms) & logic introduction
12. Units and Groups in IMS
13. OP-MON, CAM/PM
14. OP-REQ2, Permit shield processing
15. OP-ACPS, compliance schedule data entry in IMS
16. OP-REQ3, Manual Builds
17. Alternate monitoring requirements
18. Major NSR Summary Table
19. How to generate a working draft of the permit (WDP) using BOEXI
20. Archiving WDP and other documents in GroupWise (GW)
21. Productivity issues in processing TV permits; best practices in permit processing.
22. TV project types – OP-Notify, Admin, Initial, Revisions, Renewals
23. IMS tracking elements & project notes
24. Compliance history check and delinquent fee check
25. QA/QC review & tools, understanding QA/QC scoring sheet
26. TV permit record – generating SOB, PNAP, RVN-5, Tech Sum, route slip, etc. documents using APD Menu; archiving in GW
27. PNAP (public notice) / RVN-5 (public announcement)
28. Public/EPA comments
29. ER-2 and other effective permit letters, permit issuance, SOP footer changes
30. TV GOP versus SOP comparison

31. TV GOP processing
32. Processing TV Void projects
33. Acid Rain & GHG permits
34. Advanced Title V permitting topics covered by subject matter expert (SME):
  - a. PM/CAM issues in TV and NSR permits
  - b. RTC's – understanding of the process to respond to public comments
  - c. RRT – understanding how RRT's work, how to develop maintain CES, RES, flowcharts, UA forms, etc., how to develop logic solutions, etc.
  - d. OP-REQ1 training – understanding working of combo logic spreadsheet that generates TV special terms and conditions in response Y or N responses to OP-REQ1 questions or combinations thereof.
35. Periodic homework assignments to improve understanding of above topics.
36. Additional items emphasized:
  - a. timely response to emails;
  - b. writing business emails
  - c. confirm receipt response if the technical response requires more than X number of days;
  - d. timely response to telephone messages, respond in one business day or less;
  - e. away messages for email;
  - f. away messages for voice mail;
  - g. clear communication
  - h. respect
  - i. active listening
  - j. research before responding if you don't know the answer
  - k. phone duty
  - l. AIRPERM emails

Periodic refresher training and training covering new/revised processes is provide to all staff. This training covers topics such as:

1. OP-REQ1, SOB, Acid Rain, CSAPR & GHG
2. RRT
3. PM/CAM
4. OP-NOTIFY versus minor revisions
5. BOEXI report types and menu navigation

Finally, CENSARA and other technical training is offered to all staff on a periodic basis.

17. Is there anything EPA can do to assist/improve your training?

EPA could develop and offer on-line training regarding the various emission limits, work practices, monitoring, testing, recordkeeping, and reporting requirements found in the regulations. The training could also include flow chart type decision matrix for determining applicability to the regulations and determining associated requirements based on site-specific criteria.

18. Overall, what is the biggest internal roadblock to title V permit issuance from the perspective of TCEQ's resources and internal management support?

The TCEQ has sufficient resources and management support to ensure issuance of Title V permits.

### **Fees Calculated**

19. Does TCEQ charge title V fees based on emission volume?

Yes.

- a. If not, what is the basis for your fees?  
b. What is your title V fee?

For FY20, \$53.34 per ton, see attachment aef\_rates.pdf

20. How are fees calculated? Show formula for calculation of emission-based fees, application fees, and hourly processing.

For FY12 and subsequent years, the rate per ton must be calculated using the following formula.

$$\text{Rate per ton} = \$\text{AdjBaseRate} \times (\text{CPI}/122.15)$$

Where:

AdjBaseRate = an adjustable base rate, equal to \$25 for FY12, and adjusted annually, as necessary, thereafter between \$25 and \$45;

CPI = average of the consumer price index for the 12 months preceding the fiscal year that a fee is being assessed (as published by the United States Bureau of Labor Statistics, CPI - All Urban Consumers, Not Seasonally Adjusted, base period 1982 - 84 = 100); and  
122.15 = average consumer price index for FY89 (as published by the United States Bureau of Labor Statistics, CPI - All Urban Consumers, Not Seasonally Adjusted, base period 1982 - 84 = 100).

- a. Provide examples of the calculations of actual emissions for fee purposes.

See attachment FY2020 Fee Basis Window.pdf

- b. Provide an example of emission inventory request letter.

See EI attachments: 2018 EI\_Cover\_Letter.pdf., 2018\_EI\_Attach1\_Web Options.pdf., 2018 EI\_Attach2\_Information.pdf

See Fees attachments: FY2020 Fee Letter.pdf, FY2020 Fee Basis Form.pdf

21. Are appropriate (actual or allowable) emission records used for dollars-per-ton based fees?

Yes.

22. How does TCEQ determine the actual emissions for fee purposes?

Per the emissions fee rule, 30 TAC Section 101.27, the fee basis information is self-reported by site's that have or should have a Title V permit and are then billed by the TCEQ. The regulated entity reports the site's permit allowable and/or actual emissions. A detailed review is performed to verify the reported permitted allowable and the site's reported annual point source emissions is used to verify reported actual emissions. Per 30 TAC 1010.27 under no circumstances may the fee bases be less than the actual emissions for the site.

### **Collections Tracked**

23. Discuss how incoming payments are recorded to the appropriate accounts.

When incoming payments are received, actual funds are received into the state's general ledger system. TCEQ processes the receipt into TCEQ's accounts receivables (AR) system subledger, BASIS2. Each customer is required to include the coupon from TCEQ's billing statement with their payment for accurate processing. Within the BASIS2 system, each customer has a unique AR account number. Receipts are properly posted to those unique AR account numbers. Transaction processed in AR system are uploaded to the state accounting system and treasury processes the checks

24. Are sources paying the total fees charged each year?

Yes.

25. Are sources paying on time?

Yes, the FY20 collection rate as of January 22, 2020, is 98.93%. Reference attached file titled, "Item #25, 30, 33 Amt. Inv. vs. Inv Outstanding".

26. What procedures are maintained for collection of outstanding title V revenues?

TCEQ collects debt that is less than 90 days delinquent utilizing the warrant hold process, negotiating a payment plan with customers and following the agency's delinquent fee protocol of not authorizing registrations, licenses or permit modifications, etc., until an outstanding balance is paid in full. At which time an account becomes more than 90 days delinquent, accounts with outstanding balances of less than or equal \$4,999 are referred to the private collections contractor while accounts owing \$5,000 or greater are referred to the Texas Office of the Attorney General (OAG) Bankruptcy and Collections Division.

27. Are late fees being assessed?

Yes, late fees are assessed.

28. How are late fees being credited to the title V accounts?

Late fees are deposited to the credit of the Title V account and become part of the balance. TCEQ reviews late fee waiver requests on a case-by-case basis. Requests must be approved by the Accounts Receivable Team Leader or Revenue Operations Manager for late fee to be waived.

29. How do you insure that a facility has paid all applicable title V permit fees prior to issuance of the permit?

The agency has a delinquent fee protocol that prevents the authorization of registrations, licenses or permit modifications, etc., until an outstanding balance is paid in full.

30. Have all title V fees been collected for the FY 2017, FY 2018, and FY 2019?

The uncollected percentage rate for FY17 is 0.01%. The uncollected percentage rates for FY18 & FY19 are 0.00%. Reference attached file titled, "Item #25, 30, 33 Amt Inv vs Amt Outstanding".

31. If there are uncollected title V fees, how does TCEQ pursue collection of such fees?

TCEQ collects debt that is less than 90 days delinquent utilizing the warrant hold process, negotiating a payment plan with customers and following the agency's delinquent fee protocol of not authorizing registrations, licenses or permit modifications, etc., until an outstanding balance is paid in full. At which time an account becomes more than 90 days delinquent, accounts with outstanding balances of less than or equal \$4,999 are referred to the private collections contractor while accounts owing \$5,000 or greater are referred to the Texas Office of the Attorney General (OAG) Bankruptcy and Collections Division.

32. Does TCEQ assess late fees on sources that have not paid the appropriate title V fees? If so, when is the late fee assessed and what is the timeframe for remittance of all the applicable fees?

TCEQ billing statements are net thirty days. Customers are provided thirty days to remit payment to TCEQ. Once an account is thirty days past due, a late fee of 5% is assessed. Once an account is sixty days past due, an additional late fee of 5% is assessed. Delinquent fees accrue interest beginning on the 61st day after their due date. The yearly interest rate on all delinquent fees is the prime rate plus one percent as published each year in the Wall Street Journal at the beginning of January.

33. Provide TCEQ's data detailing actual collections vs. billings or fee tracking for the title V permitting program. Illustrate what procedures are maintained for collection of outstanding title V revenues.

Reference attachment titled, "Item #25, 30, 33 Amt Inv vs Amt Outstanding". TCEQ adheres to the agency's delinquency protocol for collection of outstanding balances.

34. Provide copies or documentation of examples detailing late fee assessment and recording collection of fees to title V accounts.

Reference attachments titled, "Item #34 – 21012357 Billing Statement" and "Item 34 – 21012357 AR System screen shot".

### **Billing Process**

35. Can TCEQ show that sources are billed in accordance with your fee requirements?

Yes. The program division generates a billing file from the STARS system. The file is automatically transferred to the local server for the finance division. The program division informs finance of the number of accounts in the file and the total amount. Finance runs an error test on the file looking at each transaction and confirms the number of files and totals. If there are no errors, finance uploads the file data in the agency accounts receivable system. The attached file titled "Item #7 AEF Oct Invoice Adjustment Report" is a report showing the dollar amount by AR account number and facility number that was uploaded in the AR system. AR account number 21012357 can be validated by looking at page 31 and referencing that amount to the billing statement attached titled, "Item #34 - 21012357 Billing Statement" for Victoria City Power LLC.

36. What is the state billing process including notification time frame and receiving and tracking? Please describe.

TCEQ Air program division sends an electronic file to TCEQ's Financial Administration Division by the scheduled deadline which is around the tenth of the month (ex. January 10, 2020). The electronic file is reviewed by finance and processed into TCEQ's accounts receivable system to credit/debit the AR account number specified by the air division. Billing Statements are printed around the fifteenth of the month (January 15, 2020). The finance office prepares the printed billing statements which are mailed to customers around the 23rd of the month (January 23, 2020) to allow time for the mailed statement to be received by the customer no later than the 30th day of the month (January 30, 2020).

The customer is required to pay the billing statement by the 30th day of the following month (February 29, 2020). TCEQ customers can return the coupon on the billing statement with a check, ACH and Wire of any amount or pay accounts balances </= \$1,000.00 by credit card. Late fees are processed in TCEQ's accounts receivable system around the tenth of the month for the previous month's required payments.

### **Revenue Allocated**

37. Provide account balances by object/facility codes.

Reference attached file titled, "Item #37, AEF Balances". This report shows account balances with facility code as of January 23, 2020, at 4:10pm, which may include accounts with balances that are not past due.

38. How are title V fees budgeted/allocated by TCEQ?

Annually, the agency's departments estimate their funding needs by program, including Title V. Based on these estimates, the budget department reviews and allocates funding to support those programs. The amount allocated to the departments is distributed in the account specific to that program.

39. Provide specific formulas showing how you calculate administrative personnel costs, overhead, and non-labor costs (e.g., travel, training, purchases, etc.)

The program estimates their other operating costs required to support their program including travel, training, supplies, and other purchases.

40. Provide examples of time sheets for project managers, administrative support staff and management personnel.

Please see attached documents entitled "Admin Support Staff Timesheet", "Title V Manager Timesheet", and "Title V Permit Reviewer Timesheet".

41. Provide examples of procurement documents, travel vouchers, training, etc. with clear linkage to the title V permit program. Please include travel vouchers which illustrate dual purpose travel. For example, where more than one type of facility was visited.

Please see attached documents entitled "Title V Temp SM.\_Redacted 2", "Title V Travel Voucher 1", Title V – EPA Conf. Redacted", Title V Training..\_Redacted (1)", and "Title V Training..Redacted (2)".

42. Provide account balances by object code for FY 2018 and FY 2019.

5094 – Operating Permit Fees Fund Balance

FY18 – \$13,089,751

FY19 - \$11,484,129

**Cost of “Effective” Program (Resources to Address Backlog/Renewals)**

- 43. Provide end-of-year accounting reports that illustrate actual and estimated costs of the program. Provide the FTE and itemized cost estimates TCEQ uses to budget your title V program. Also, include the total amount of title V fees expended and the total amount billed to facilities for Title V (by FY 2017, FY 2018, and FY 2019) for the last three years.

See document titled – Question 43 FTEs and Budget

- 44. Provide a report that estimates costs of running the program, i.e., direct and indirect program costs that are broken down into specific cost categories. How are these expenditures calculated/tracked?

See document titled – Question 44 Direct\_Indirect Costs.

The agency’s funding is allocated by strategy. Direct costs include Air Quality Assessment and Planning, Air Quality Permitting, Field Operations and Complaints, Enforcement and Compliance Support. Indirect costs include Central Administration, Information Resources, and Support Services.

- 45. Provide a summary of title V obligations and encumbrances for FY 2017, FY 2018, and FY 2019.

<b>FY</b>	<b>Encumbrances</b>
2017	-
2018	136,304
2019	2,423,660
Total	2,104,888

**Split of 105 vs. Title V**

- 46. What type of accounting framework do you use to account for title V programs fees (e.g., general fund, special revenue fund, expendable trust fund)?

The agency has separate chart of accounts by the funding source. The Title V program utilizes the General Revenue Dedicated Account 5094 – Operating Permit Fees.

- 47. How are title V revenues kept separate from all other state generated revenues? Is TCEQ currently utilizing non-title V revenues or general appropriations to support the Title V

operating permit program or has it done so since FY 2017? If so, please provide details of why non-title V funds or general appropriations were utilized.

The agency has separate chart of accounts for by funding source and programs. The Title V program utilizes the General Revenue Dedicated Account 5094 – Operating Permit Fees. No other funds are used to support the Title V program.

48. How does TCEQ account for excess monies (if any) collected for the title V program?

Any funds not expended in the Operating Permit Fees Account remain in the account.

49. What mechanism(s) is TCEQ using to differentiate title V activities from non-title V activities?

- a. If accounting codes are utilized to differentiate activities, please provide a listing of those codes and an explanation for each specific expenditure and revenue type.

The agency has a separate chart of accounts for programs. The Title V program utilizes the General Revenue Dedicated Account 5094 – Operating Permit Fees. This account is used to track Title V activities

50. Have you integrated features into your accounting/financial management system which will identify title V expenditures separate from other non-title V permitting program expenses? Please describe.

- a. If so, are the same expenditure codes used in each organizational unit of TCEQ that conducts work in support of title V related activities? Please provide a comprehensive listing of all such codes and their descriptions and indicate each of the organizational units within the TCEQ that uses them. Include each expenditure code that may be used to support title V related activities.

Title V activities are tracked using account 5094. Each organizational unit responsible for Title V activities utilizes this account to track their budget/expenses. Title V activities are also broken down by strategy such as Air Quality Assessment and Planning, Air Quality Permitting, Fields Inspections and Complaints, Enforcement and Compliance Support, and Indirect Administration.

51. Does the TCEQ keep separate records that identify title V monies collected from other non-title V permitting program fees?

No, Title V facilities only pay the emission fees and do not pay air application fees. TCEQ does not specifically track payments by Title V facilities for non-air permitting.

- a. If so, is this recordkeeping process the same for each of the revenue streams used throughout all of the TCEQ? Please explain.

52. What are the amounts of the 105 grants funds received in FY 2017, FY 2018, and FY 2019, respectively?

	FY 2016			FY 2017	FY 2018			FY 2019
Award Issued	8/24/2015	11/20/2015	6/22/2016	N/A	9/7/2017	2/22/2018	8/14/2018	6/13/2019
Fed Award	6,982,331	(76,801)	6,939,413	-	6,010,480	909,837	6,037,242	920,402
<b>Fiscal Year Total</b>			<b>13,844,943</b>	-			<b>12,957,559</b>	<b>920,402</b>

53. What are the amounts of the 105 grants funds used in FY 2017, FY 2018, and FY 2019 respectively?

Grant #900638 - FY16-17	Grant #510518 - FY18-19	Grant #510518 - FY18-19
FY17	FY18	FY19
\$ 7,309,453.16	\$ 6,280,998.22	\$ 7,335,914.41

54. What are TCEQ's source(s) of 105 matching funds? Please discuss.

Match funds are provided by the General Revenue Dedicated Account 0151 – Clean Air. Match is also provided by an external entity - local government. The chart below provides the state match.

- a. Please provide total funds by accounting code for each category or source of matching funds for each of FY 2017, FY 2018, and FY 2019.

Match	AY17	AY18	AY19
Clean Air Account - 0151	4,360,010	3,910,239	4,342,703
External Match - Local Government	508,074	277,094	547,907
Total Match	4,868,084	4,187,333	4,890,610

55. How does your accounting system produce reports, periodically and as requested, with which you will be able to certify the disposition of title V funds? Please discuss.

On a daily basis, the agency receives an account extract of the transactions processed in the Uniform Statewide Accounting System (USAS), which is the state's system of record. The agency has standard financial reports available. The reports can be detailed or in a summary format. We also can produce ad hoc reports from the data received.

Appendix B. TCEQ Response to EPA Follow-up Questions – 09/03/2020

**From:** [Samuel Short](#)  
**To:** [Wilson, Aimee](#)  
**Cc:** [Cox, Kyndall](#); [Elizabeth Sifuentez Koch](#); [Greg Yturralde](#); [Donna Huff](#); [Tonya Baer](#)  
**Subject:** RE: Texas Audit Report Questions  
**Date:** Thursday, September 03, 2020 7:40:19 AM

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Good morning,

Please see our responses below and let us know if there are any additional questions.

Sam

Samuel Short  
Air Permits Division  
Texas Commission on Environmental Quality  
512 239-5363  
[samuel.short@tceq.texas.gov](mailto:samuel.short@tceq.texas.gov)



How are we doing? Fill out our online customer satisfaction survey at [www.tceq.texas.gov/customerurvey](http://www.tceq.texas.gov/customerurvey)

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**From:** Wilson, Aimee <Wilson.Aimee@epa.gov>  
**Sent:** Wednesday, August 26, 2020 12:00 PM  
**To:** Samuel Short <samuel.short@tceq.texas.gov>  
**Cc:** Cox, Kyndall <Cox.Kyndall@epa.gov>  
**Subject:** Texas Audit Report Questions

Sam,

Kyndall has been hard at work to complete the title V fee audit and we have a few questions. I'll list the items below, but it might be easier to have a phone call to discuss these. Let me know if you have some time available tomorrow afternoon. I can send out a meeting invite once I know availability. I understand you are busy with the approaching hurricane, so please let me know what will work best for you. We are hoping to get the draft report to you soon.

- Does TCEQ have quantitative data for revenue vs expenses for the past few fiscal years? A table with this type of data would be preferable.
- 

	Account 5094 Title V Operating Permits		
	FY 2017	FY 2018	FY 2019
<b>Revenue</b>	\$ 39,192,526	\$ 40,984,696	\$ 40,783,443
<b>Expenditures</b>	\$ 37,923,725	\$ 35,645,767	\$ 39,976,832

Source: TCEQ Annual Financial Reports for FY 2017, 2018, 2019

- Are the air inspection receipts wholly integrated in account #5094 since 2019? The inclusion of air inspection receipts for Title V facilities began in FY 2018. The receipts are moved manually and once the air system changes are made, manual adjustments will not be required.
- Please clarify the information submitted regarding Encumbrances: Are these outstanding fees owed to TCEQ by permittees? or mortgages? Encumbrances are a reservation of funds that represent obligations or projected commitments to purchase or pay for goods or services. The table provided outstanding obligations/projected commitments in the Title V Account.
- Can you clarify how the expedited process fees are handled? As expedited processing fee receipts are deposited, they are split between two separate Program Cost Accounts for maintaining a distinction between the receipt amount and the administrative surcharge. Customers pay an estimated expedited amount up front along with the non-refundable administrative surcharge. After the expedited permit has been issued, the actual cost is determined and the customer is refunded the difference in overpayment from the non-administrative surcharge program cost account.
- 

Thanks,  
Aimee

*Aimee Wilson*

U.S. Environmental Protection Agency  
Region 6  
Air Permitting  
Phone : (214) 665-7596  
Email: [wilson.aimee@epa.gov](mailto:wilson.aimee@epa.gov)