



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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MAR 06 2015

Ms. Peggy M. Hatch
Secretary
Louisiana Department of Environmental Quality
P.O. Box 4301
Baton Rouge, LA 70821-4301

RE: 2012 Louisiana Title V fee audit final report

Dear Secretary Hatch:

As part of the Environmental Protection Agency's (EPA) oversight responsibilities, the EPA Region 6 staff conducted an audit of the State of Louisiana's approved Title V fee program beginning in fiscal year 2012.

The purpose of this letter is to transmit a final report of the Region's assessment of the program, which is administered and enforced by the Louisiana Department of Environmental Quality (LDEQ). As a matter of convenience, and because many of the exhibits referenced in the report originated from the LDEQ, the report (and Appendix A and all exhibits) is provided electronically on the enclosed compact disk (CD). The exhibits include copies of both the draft and the final fee demonstrations submitted to the EPA by the LDEQ in response to our January 2014 draft audit report findings which were shared with the LDEQ prior to the EPA finalizing this audit report.

Our findings in the final audit report include:

- The revenue and expense tracking program currently implemented by the LDEQ is capable of adequately tracking and accounting for the collections, revenue streams, and expenses of the program.
- The revenue from Title V emissions fees and other fees derived from Title V sources appear to be sufficient to pay for both the direct and indirect costs of the LDEQ Title V program. The LDEQ Title V program was approved in 1995 when the cost of the program was 76% of the \$25/ton presumptive minimum, using a combination of Title V emissions fees and other fees derived from Title V subject sources. In 2011, the LDEQ cost was \$26.24/ton, which was 59% of the inflation adjusted federal presumptive minimum of \$44.48/ton. In the December 2014 draft fee demonstration, the LDEQ projects a 2016 program cost of \$32.21/ton, on a total cost divided by total tons of criteria pollutant emissions basis, which is approximately 67% of the EPA's presumptive minimum of \$48.27/ton (CPI adjusted, September 1, 2014-August 31, 2015 basis).
- The LDEQ represents that Title V fee revenue collected and managed through the Louisiana Environmental Trust Fund are more than enough to adequately carry out the functions listed in 40 CFR 70.9(b)(1), and funds from Part 70 sources are the sole means used to finance the Title V program.

Our recommendations in the final audit report include:

- We want to emphasize that LDEQ should continue to collect fee revenue sufficient to cover the reasonable direct and indirect costs for its Title V program, and that the Title V revenue should not be used for any other purpose except to fund the required Title V program elements and any excess revenue should not be subject to reallocation to other environmental regulatory programs or state government uses. The LDEQ should continue to maintain detailed accounting records to document that all fees collected from Title V source emission fees and other fees (e.g., air toxic fees, application fees) that are used to support the Title V program are paid by Title V permitted sources and that those fees adequately support the implementation and enforcement of the Title V permit program in Louisiana.
- We acknowledge receipt of the LDEQ's finalized Title V fee demonstration dated February 12, 2015. We would also recommend that the LDEQ make routine projections over time to assure that the ongoing mix of fees from Title V subject sources will continue to meet the total direct and indirect costs of the Title V program in Louisiana.

We commend the LDEQ on the improvements demonstrated in the area of revenue and expense tracking for Louisiana's Title V federal operating permit program. This report concludes our Fee Audit begun in 2012. If you have any questions, please do not hesitate to call me or Jeff Robinson of my staff at (214) 665-7250.

Sincerely,



Wren Stenger
Director
Multimedia Planning and
Permitting Division

Enclosures

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LDEQ Assistant Secretary, Office of Environmental Services

Cheryl Nolan
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Report without CD of Exhibits:

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EPA Region 6 2012 Audit of LDEQ Title V Operating Permit Fee Program

Executive Summary

Background

Title V Operating Permits Program, Program Funding and Management In Title V of the Federal Clean Air Act (CAA) Amendments of 1990 (P.L.101-549, United States Code §§7661-7661f), Congress set forth a mandatory fee funded operating permit program intending to assure clarity of obligations and compliance demonstration under the Act for each individual major stationary source of air pollution. Implementation of title V programs are delegated to the appropriate state or local jurisdiction permitting authorities that have met all relevant 40 CFR Part 70 legal authority and implementation capabilities of the program. Specifically, 40 CFR §70.9, "Fee determination and certification" and 40 CFR §70.10 "Federal oversight and sanctions" provide mechanisms to assure that permitting authorities have adequate funding for their programs and that EPA assures proper initial and ongoing program implementation.

Congress did not mandate a specific fee mechanism be established, but established a fee per ton of criteria air contaminant emissions or, equally, a mix of fees in a fee schedule as suitable funding mechanisms, provided the major source fee generated revenue covered all of the direct and indirect costs of the Title V program and were used solely for that purpose. Congress identified that an emissions fee of \$25/ton (adjusted annually based on the Consumer Price Index (CPI)) was presumptively adequate for an approvable program based solely on emissions fees, but allowed for any alternative fee schedule and minimum fee provided the permitting authority meets the demonstration requirements of 40 CFR §70.9 covering all direct and indirect costs of the mandatory elements of the program.

Title V permittees pay fees directly to the LDEQ as the administering air quality agency, the program acts much like a commercial enterprise. EPA has recognized that State governments can choose from generic types of funds such as trust funds to manage their Title V programs. LDEQ is currently funding the Title V program through Title V source specific emission fees and through other fees such as the air toxics fee and annual maintenance fees that are collected from Title V major sources which are deposited into the Louisiana Environmental Trust Fund. Title V revenue is expended from that same fund to pay for Title V program costs using appropriate accounting tools.

The Current Fee Audit EPA Region 6 initiated a limited scope programmatic oversight audit of the Louisiana Department of Environmental Quality (LDEQ) Title V permit fee program in fall 2011. The purpose of the audit was to determine if sufficient fee revenue is being collected and retained to cover the costs of the LDEQ fully delegated Title V program and whether the systems used by the LDEQ are adequate to track and account for the collection, retention, and management of program revenues and expenses and, conversely, that non-Title V program expenses are not being recovered through the Title V program.

Audit data gathering occurred during FY 2012-2013. Timely written responses to the 76 questions posed were provided by the LDEQ and supplemented with over 44 datasets and exhibits. Data analysis and preliminary findings were developed in FY 2013 and were shared with the LDEQ in January of 2014. The LDEQ then evaluated their current practices against the demonstration criteria found in 40 CFR Part §70.9 and provided a draft report outlining their current practices which included program costs, program organization, and changes LDEQ undertook as part of the adoption of a new state agency wide financial system.

Findings

Revenue and Billing Findings LDEQ's accounting system appears adequate for Title V fee revenue and expenditure purposes, and their systems allows for timely receivables billing and tracking. Louisiana calculated their 2011 Title V program cost \$7.97 MM, \$5.56 MM of which was paid for by Title V criteria pollutant emissions fees, with the balance of the costs of the program, some \$2.41MM was paid for from the fee schedule derived revenues from the Title V sites in the state. Such fees included permit application fees, air toxics fees, and annual monitoring and maintenance fees paid for by Title V sites.

Title V program estimated cost per ton in 2011 and Projected for 2016 LDEQ's 2011 aggregate Title V program cost was an EPA calculated \$26.24/ton based on LDEQ supplied data, which is 59% of the federal presumptive minimum CPI adjusted fee of \$44.48/ton for that same year. In contrast, the LDEQ demonstrated to EPA's satisfaction in 1993 that \$19/ton was adequate to run the Title V program, which was 76% of the presumptive minimum fee of \$25/ton at that time. As was the case in 1993, the LDEQ uses a mixture of fees to fund the Title V program, and does not solely rely on criteria pollutant emissions fees. The LDEQ projects that total direct and indirect costs of the program for 2016 will be \$9.2MM, or approximately \$32.21/ton, on a total cost divided by total tons of criteria pollutant emissions basis, approximately 67% of EPA's presumptive minimum of \$48.27/ton (CPI adjusted for September 1, 2014-August 31, 2015 basis). The LDEQ also indicates that as in the past, this total cost is supported by a combination of Title V criteria pollutant emissions fees and the fee schedule derived fees paid by Part 70 subject sources. LDEQ asserts that had the state relied solely on CPI adjusted Title V criteria pollutant emissions fees rather than on a combination of emissions fees the volatile nature of changing total emissions would have required a legislatively approved emissions fee increase. The LDEQ does not rely solely on emissions fees and therefore some of that emissions related volatility is avoided and the total fee revenue generated from Title V subject sites continues to exceed the direct and indirect costs of their Title V program, a pattern that the LDEQ expects to continue into the foreseeable future.

Does LDEQ collect sufficient funds to properly implement, enforce, and manage the program? LDEQ organizational restructuring, reduction of 12 FTEs in the permitting group, new program implementation level of effort accounting (e.g. "expedited permits"), and procedural changes (automation of permit development, toxics program restructuring) undertaken since initial program approval in 1995 made a direct comparison of current program costs versus initial program costs, as demonstrated by an initial program fee demonstration, impossible. The LDEQ's recent draft fee demonstration provides much of the necessary information upon which to base a formal fee demonstration update to the LDEQ Title V program.

Recommendations

We want to emphasize that LDEQ should continue to collect fee revenue sufficient to cover the reasonable direct and indirect costs for its Title V program, and that Title V revenue should not be used for any other purpose except to fund the Title V permitting program and any excess revenue should not be subject to reallocation to other environmental regulatory programs or state government use. LDEQ should continue to maintain detailed accounting records to document that all fees collected from Title V source emission fees and other fees (e.g., application fees, air toxic fees) that are used to support the Title V program are paid by Title V permitted sources and that those fees adequately support the implementation and enforcement of the Title V permit program in Louisiana.

We acknowledge receipt of LDEQ's finalized Title V fee demonstration dated February 12, 2015. We would also recommend that the LDEQ make routine projections over time to assure that the ongoing mix of fees from Title V subject sources will continue to meet the total direct and indirect costs of the Title V program in Louisiana.

2012 LDEQ Title V Fee Program Audit

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EPA 2012 Audit of the LDEQ Title V Fee Program

I. Introduction

Title V of the Clean Air Act ("CAA" or the "Act"), 42 United States Code (U.S.C.) §7661-7661f) and 40 Code of Federal Regulations (C.F.R) Parts 70 (state/local program requirements) and 71 (EPA program requirements) sets forth the elements of a mandatory operating permit program which authorizes the operation of major emitting stationary sources of air pollution. The Title V *operating* permit program ("Title V") introduced with the CAA amendments of 1990 (P.L. 101-549) was in addition to the other Title I and Title IV *preconstruction* permitting programs found in the Act (PSD, nonattainment NSR, 112(j), acid rain). A Title V permit for a site contains a detailed, clear, and explicit listing of all stationary source requirements at the site whose origin or basis is found in the Act. These requirements are listed on an emission unit by emission unit basis, and include emissions limitations and standards and their associated monitoring, testing, recordkeeping, and reporting requirements. In addition, Title V requires prompt reporting when deviations are identified, and mandates company prepared and submitted Responsible Company Official annual certifications of compliance based on any credible evidence, including the requirements found in the permit itself. The permit is to be kept up to date (thru amendments of various types) and expires unless timely renewed after 5 years. The Title V permit thus forms not only a complete listing of all applicable requirements, but also lists the means to determine compliance as well as requiring regular compliance statements such that both the permit holder and the public understand the compliance burden and status for a given major source.

The permits under Title V were intended to be developed, implemented, and enforced by permitting authorities (state and local governmental agencies) who have been delegated such authority by EPA through formal public notice and comment procedures, as outlined in Title V of the Act and implemented through 40 CFR Part 70. In Section 502(d) of the Act, Congress directed the EPA to be the permitting authority for Title V subject sources when program delegation was not possible or where an EPA identified program deficiency precluding full program approval was not corrected timely by the state or local government seeking program approval. For those delegated programs, the Act tasked EPA with ongoing program oversight responsibilities in accordance with the framework laid out in Title V and implemented thru rule in 40 CFR Part 70. Programs previously partially or fully delegated by the EPA can have their delegation revoked by the EPA if timely corrections are not made when program deficiencies are identified by the EPA (Section 502(i) of Title V). When necessary, EPA fulfills the permitting authority role, collects fees, and issues and enforces permits in accordance with 40 CFR Part 71.

Specific and detailed fee provisions were include by Congress in section 502(b)(3) of the Act in order to assure that the permitting authority has an adequate, dedicated, and permanent funding stream to develop, implement, and enforce the Title V program. Section 502(b)(3) of Title V established an annual fee (or mix of fees) to be collected from Title V subject sources of at least \$25/ton of 'regulated pollutants' emitted. While \$25/ton was presumed to be an adequate funding basis upon which to develop, implement, and operate all facets of an approvable program, a provision was also made in that same section of Title V to allow a lesser amount to be collected by a permitting authority upon which to run the program; however, a demonstration of adequacy was mandated prior to delegation where such a lesser amount was proposed by the permitting authority. The elements of a fee demonstration required to be made by each program for full delegation is found in 40 CFR §70.9, "Fee Determination and Certification." To assure adequacy of funding into the future, Congress required that the \$25/ton "presumptive minimum" be adjusted annually for inflation. The per ton inflation adjusted 'presumptive minimum fee' was \$44.48/ton in FY2011. Assuring that a delegated permitting authority continues to properly implement the program after initial program approval is part of the ongoing oversight role of

EPA, an oversight role that allows for delegation to be revoked should EPA find significant deficiencies in program implementation, including the mandatory fee elements of any approved program, as outlined in section 502(i) of the Act.

This report summarizes items discovered during EPA Region 6's review and evaluation of the current Louisiana Title V fee program. This review resulted in the identification of strengths, weaknesses, and recommendations as part of the ongoing Region 6 EPA oversight of the LDEQ Title V program.

II. History

The current review, documented here, was begun in 2012 and is the third review of the LDEQ program in the almost 20 year history of the program that addresses, at least in part, the Title V fee program. The scope of the current review differs from the previous two in that it focuses narrowly on fee sufficiency and revenue and expense tracking adequacy and does not address implementation of the Title V program as a whole.

1993 Initial Program Approval – Fee Adequacy Demonstration

As part of their initial Title V program approval package, the LDEQ set forth a fee program in 1993 that was anticipated to collect annually approximately \$10.8 million in the aggregate, using a combination of dedicated Title V 'regulated' or 'criteria' pollutant emissions fees (approx 46% of total), annual monitoring and maintenance fees (approx 26% of total), air toxics emissions fees (17% of total), and preconstruction permits fees (10% of the total).

At \$9/ton, the Title V criteria pollutant fee was anticipated in 1993 to raise about \$5 million dollars annually, which was projected to be about 46% of the total revenues needed to cover the direct and indirect costs of the program. This was based on 553,586 tons per year of criteria pollutants reported in the 1992 annual emissions inventory.

As part of its initial Title V Program approval package, the LDEQ demonstrated to the satisfaction of the EPA that their program could be adequately run at an aggregate revenue stream of \$19/ton, only \$9/ton of which would come from dedicated Title V criteria emissions fees, the balance of the needed revenue would come from a combination of annual maintenance, permitting, air toxics emissions, and copying fees. The fee demonstration was required as the LDEQ average cost per ton was \$6/ton less than the Title V section 503(b)(3) presumptive minimum level of funding of \$25/ton.

The LDEQ determined that the average \$19/ton would adequately support the additional level of effort necessary to implement Title V related activities (equivalent to 51 FTEs¹), and was based on an assumed 900-960 Title V subject sources which would require a single Title V permit per source. The EPA addressed the fee demonstration in the Federal Register proposed interim program approval notice on August 25, 1994 and fully approved the program on September 12, 1995 (60 FR 47296).

2002 Review – First Full Title V Program Evaluation After Approval

The first review began in 2002 as an evaluation of the entire program brought on by a combination of routine EPA program oversight activities and concerns raised by citizen groups. On March 13, 2002, a petition was submitted to the EPA Administrator seeking the withdrawal of program approval for the LDEQ Title V program. The Petitioners (comprised of representatives of the Concerned Citizens of New Sharpy, the Louisiana Bucket Brigade, and the Refinery Reform Project of the Texas Sustainable Energy and Economic Development Coalition) raised issues related to inadequate enforcement,

¹ Workload Analysis and Fee Demonstration in Volume 1 of the November 15, 1993 LDEQ Title V Program Submittal Package.

inadequate access to information about regulated entities, and failure to collect over \$11 million in fees, among other concerns.

The outcome of the 2002 review was a multipart approach to making improvements in several areas. Inadequacies discovered in revenue and cost tracking, late payment tracking, and program budgeting were identified and recommendations for improvements in those areas were made. The LDEQ committed in a letter dated April 23, 2003 to improve fee revenue collection, retention, and cost tracking and they also agreed to conduct a thorough staffing review by December 2003, among other elements of a plan to improve their program.

2007 Review – Second Full Title V Program Evaluation

The second Title V program review to address fee adequacy was part of a full Title V program evaluation undertaken between 2007 and 2010. During this second review the EPA submitted a list of questions concerning the LDEQ Title V program, and also conducted an on-site review of the program. The LDEQ responded in writing to the list of questions in February of 2007 and provided significant assistance with the on-site portion of the evaluation which took place in Baton Rouge in May of that year.

While this program evaluation was not formally finalized, it did result in many fruitful exchanges between the LDEQ and EPA, including the EPA identification of many improvements to the LDEQ permitting program, and also the identification of several weaknesses. There were a number of specific issues identified by the EPA, each of which was responded to by the LDEQ.

With regard to staffing levels and fee collection, tracking, and allocation, the LDEQ responded that they were fully staffed in the air permits division, with 36 permit writers on staff supported by 5 additional staff.² In the area of financial tracking and accounting, the EPA found that significant improvements had been made in the four years after the first review concluded.

During the 2007 review the EPA identified that the LDEQ had no specific budget for Title V program, which made it difficult to determine whether adequate fees to cover the cost of the program would be available in the future.

The LDEQ clarified the then present sources for funding of the Title V program, and indicated that any shortfall from the fees associated with Title V activities, such as indirect program costs, were covered using general revenue in a manner consistent with their original fee demonstration made in support of their Title V program approval, which was granted in 1993.

The EPA strongly suggested that a budget be developed and an emissions fee increase be sought as part of an appropriate response to the Title V program dedicated fee funding shortfall documented by the LDEQ. In response, the LDEQ committed to provide a budget document for FY 09 to their department program administrators so that they would be more aware of the Title V program costs, and to the EPA. The LDEQ forwarded the budget document to the EPA in May of 2009.

² From page 49 of Appendix A: Louisiana Title V Program Evaluation Questionnaire response dated February 22, 2007, which is part of the May 9, 2008 Predecisional Draft EPA LDEQ Title V Audit Report.

III. The 2012 LDEQ Title V Operating Permit Program Fee Audit

Origins, Purpose, and Method

In November of 2011, the EPA notified the LDEQ that a Title V program fee audit was to be conducted for the LDEQ in FY 2012. The purpose of the audit was to determine if sufficient fees revenue was being collected to cover the costs of the Louisiana Title V program and whether the systems used by the LDEQ are adequate to track and account for the collections, retention, management of revenues and expenses of the program.

To accomplish these goals the EPA posed to the LDEQ a total of 43 Title V fee program related questions by letter dated March 16, 2012. These questions, some multi-part, were divided among eight general areas. These eight areas include (1) the Split of 105 grant funds vs Title V fees; (2) Current Title V Resources; (3) Fees Calculated; (4) Collections Tracked; (5) Billing Process; (6) Revenue Allocated; (7) Current Program Costs (FTE and OH); and (8) Cost of “Effective” Program (Resources to address backlog/renewals). These were essentially the same questions posed to the LDEQ in the Title V program audits begun in 2002 and 2007.

The LDEQ responded timely to these questions on May 9, 2012. Upon review of the responses, the EPA posed an additional 33 follow-up questions on June 20, 2012.

A teleconference was held on July 12, 2012 to discuss the supplemental questions with the LDEQ. In lieu of traveling to Baton Rouge, a second teleconference/webinar was held on August 8, 2012. The purpose of the second webinar/teleconference was to review data online with the LDEQ. During this electronic meeting many of the answers to the supplemental questions were provided by the LDEQ in the form of real time data extracts and reports. Following the webinar, the LDEQ submitted their supplemental question responses in writing on August 15, 2012.

Upon review of the submitted data, the EPA requested additional staffing information (organizational charts and FTE data) from the LDEQ, which was provided by the LDEQ via email on September 6 and 11, 2012. Additional information regarding LDEQ's expedited permit program was also requested, and a list of the expedited permit projects was provided by the LDEQ by email on September 12 and September 19, 2012.

The questions posed, answers provided, and EPA's evaluation of those responses can be seen in Attachment A. Supplementing Attachment A are a total of 24 Exhibits from LDEQ and 1 Exhibit from the EPA. These Exhibits are provided only electronically in association with this report due to their size.

The 2012 LDEQ Fee Audit General Findings

Title V permittees pay fees directly to the LDEQ as the administering air quality agency, the program acts much like a commercial enterprise. EPA has recognized that State governments can choose from generic types of funds such as trust funds to manage their Title V programs. LDEQ is currently funding the Title V program through Title V source specific emission fees and through other fees such as the air toxics fee and annual maintenance fees that are collected from Title V major sources which are deposited into the Louisiana Environmental Trust Fund. Title V revenue is expended from that same fund to pay for Title V program costs using appropriate accounting tools.

In general, we found that the LDEQ has the ability to collect fee revenue to fund the Title V program, that financial tracking systems in place are generally adequate to track and account for revenue and expenditures related to the Title V program, and that the program, through a variety of fees, collects sufficient revenue to cover the reported cost of the program. See Attachment A. Fee Questions.

Title V Cost per Ton, Count of Sources and Permits, Count of FTEs and Revenue Streams

As of fiscal year 2011, the LDEQ average fees per ton (including much of the cost associated with the expedited permit program) was \$26.95, which supported 62.7 FTEs, addressing approximately 700 Title V permits across approximately 550 Title V subject sites (see Table 1, below). The current aggregate fee revenues are \$2.77 per ton below what the aggregate 1993 fee would be had the 1993 fee been adjusted by the CPI as required by the Federal Clean Air Act. A fee of \$19/ton adjusted by the CPI would yield a fee rate of \$29.73/ton in 2011. The last time that LDEQ adjusted fees was in 2003. While the LDEQ no longer funds any of its Title V related activities from General Revenue, it does use the pool of funds from the annual maintenance fees to address shortfalls in funding from Title V fees. The LDEQ allocated \$4.1 million from monitoring and maintenance fees to offset the shortfall in Title V dedicated funding in 2011, which amounted to approximately 29.6% of the total cost of the program (See Table 1, below).

Level of Effort, FTE Count, and Significant Programmatic Changes

Based on this review, the LDEQ appears to allocate 11.7 more FTEs agency wide to conduct Title V related work on 200 fewer Title V permits than projected in 1993, and is charging less today than would be charged had they adjusted the original fee by the CPI as described above (Compare 51 FTEs anticipated in 1993 vs 62.7 FTEs actually in 2011; see Table 1 below).

The LDEQ has undergone several organizational and operational changes since the 1993 program approval, and so a direct comparison of staffing levels is not possible with the information gathered in this review. The LDEQ provided Exhibit 18 to indicate level of effort expended, in terms of FTEs in FY 2009, 2010, and 2011, but it does not appear that a fair comparison could be made between the staffing pattern detailed in the original fee demonstration and the activities undertaken by the various organizational units in the LDEQ during the timeframe of this review.

The FTE allocation provided by the LDEQ for FY 2009-2012 does not include the level of effort expended on expedited permit program projects at Title V subject sites, and so may under represent the level of effort attributable to the Title V program, nor does it detail which FTEs actually addressed Title V activities across the agency during the review period.

As explained in more detail in the EPA final response to Question 1.B of Attachment A, the expedited permit program is a Louisiana legislatively authorized economic development incentive program that benefits industry by reducing the number of calendar days it takes to develop and issue a permit. This program does so by allowing agency staff (or contract workers) to work overtime hours and get paid for the overtime work on permit projects accepted into the program. The company typically agrees to pay 100% of the overtime cost associated with the 'expedited work.' Since the state is directly reimbursed for the staff time, then the state does not consider this a 'cost.' The legislation authorizing the program was passed in 2006 and the rules to run the program were in place in time for Fiscal Year 2008. The expedited permit program was just being put into place during the 2007 audit timeframe, and so its effects on the Title V program implementation were unknown at that time.

Due to the expedited permit program, various staff now work overtime on projects that would otherwise take more calendar days to accomplish. There were over 600 expedited permit projects authorized by the LDEQ in 2011, and approximately one sixth of them were addressing projects at Title V subject sites. Some of those projects were very substantial (maximum of \$75,546 for Nucor Steel). The median expedited permit project fee was \$1506 in FY 2011. See EPA Exhibit 1 for a summary of the expedited permit program projects at Title V subject sites, and see Exhibits 20 and 21 for details on those projects. Tables 1 and 2 below summarize much of the above-referenced revenues and expenditures.

Other significant changes have taken place in the LDEQ's organizational structure, in the automating mechanisms used to develop permits, and in the means by which existing staff resources have been stretched through the expedited permit program and brought to bear in the permitting program that make comparisons to the 1993 Fee Demonstration practically impossible.

LDEQ Response to the General Findings

In January 2014, the EPA discussed the preliminary audit findings with the LDEQ. In May of 2014 the LDEQ began a thorough review of the changes that had taken place since initial program approval. This review was done along with preparations LDEQ was making in order to adopt a new statewide accounting system to replace the accounting system that they had been using for many years. As a result of this review, the LDEQ was able to provide a draft fee demonstration to the EPA in December of 2014 that illuminated some of the areas identified as unclear in the report.

Specifically, the LDEQ provided an updated organization chart showing the current structure of the Department. They also provided insight on how their new accounting system will adequately address revenue and costs of all aspects of the program, including the disposition of air toxics fees and expedited permits revenue and costs, and provided an update on their expected 2016 program costs. In their draft fee demonstration, they addressed the origin and fate of the fee schedule for the Title V program, and how the program is funded solely from revenue derived from that fee schedule as it is applied to Title V subject sites.

IV. Overall Program Strengths, Weaknesses, and Observations

In our review we have identified strengths, weaknesses, and have made several observations, as follows:

Strengths

- LDEQ's accounting system has unique reporting codes and an adequate means of tracking expenditures and revenues for Title V purposes.
- LDEQ's expedited permit program initiated in fiscal year 2008 allows more work to be accomplished by the same number of FTEs by paying them overtime for actual work done to a growing and significant percentage of air permits.
- LDEQ's billing process allows them to bill, track, and collect revenues timely and to address outstanding receivables in a timely manner.

Weaknesses

- In response to EPA follow-up question 2.A (See Attachment A, the LDEQ stated:

“There are no fees that have been adopted since the original Title V program approval, other than those described above, that are now relied upon to fund any aspect of the Title V program. None of the fees used to pay for the Title V program are dedicated by law to non-Title V program areas.”

- The calculated cost per ton of the Title V in 2011 was \$26.24, which is \$3.49 per ton less than the CPI adjusted original LDEQ Title V approved fee demonstration in 1993. For comparison, the original FCAA presumptive fee per ton of \$25 would be, when adjusted for the CPI, \$44.48 in 2011. The LDEQ fee demonstrated to be adequate in 1993 was 76% of the presumptive minimum at that time. The average fee per ton dropped to 66.8% of the presumptive minimum in 2011. See Table 1 and 2, below. LDEQ now projects that the cost of the program for 2016,

including the fees derived from the air toxics fees and expedited permit fees at Title V subject sites will result in a total average program cost of \$32.21/ton of criteria pollutants emitted, a number that is 67% of EPA's CPI adjusted presumptive minimum fee of \$48.27/ton for 2014-2015. The LDEQ expects that the combination of fees derived from Title V subject sites will adequately cover the total cost of the Title V program in Louisiana for the foreseeable future³.

- In the almost 20 years since LDEQ's original Title V fee demonstration:
 - The LDEQ has undergone a major re-engineering and subsequent re-organization of offices since the original Title V fee demonstration in 1993. Therefore, EPA is unable to fairly compare the original FTE allotments to current staffing with the scope of the current review.
 - Changes in permit development due to technology advancements and LDEQ's implementation of databases such as TEMPO and EDMS since 1993 make comparing the level of effort required to implement the program between then and 2011 impossible.

Additional Observations

- While this review focused on fees, we did collect some information on staffing. The LDEQ directly provided the total level of effort (in terms of FTEs) expended by the program in each of the fiscal years. At our request, the LDEQ also provided organization charts for the entire agency, but they did not provide the FTE positions per division and office and the percentage of each position's time allocated to actual Title V tasks. Consequently, we could not determine the exact number of people actually working either part or full time on Title V program tasks from the information provided or whether the amount of employees implementing all aspects of the Title V program is sufficient to support an effective program.
- The overall decreasing number of FTEs (as seen in Exhibit 9 and with more detail in Exhibit 18) coupled with the increase use of the expedited permit program or that portion of the air toxics program that supports Title V activities makes it unclear whether the number of FTEs actually performing Title V related work is adequate and sustainable.
- Exhibit 18 appears to be a calculation by division of the number of FTEs based upon actual payroll charges to RCAT code 3034 (Title V program). For the Inspection Division this was 3.9, 7.0, and 6.4 FTEs for FY2009, 2010, and 2011 respectively. The Compliance Monitoring Strategy agreement requires LDEQ to inspect 50% of the approximately 530 Title V facilities statewide annually. The Exhibit 18 number of FTEs to accomplish inspections at Title V subject sites annually raises concerns whether these numbers are an accurate reflection of actual level of effort for the inspection function or whether the time charged to Title V was accurate, an evaluation that was not possible given data collected based on the scope of this evaluation.
- The 2014 review undertaken by the LDEQ in response to the preliminary fee audit findings, and in support of the transition of their accounting system to the adoption of the new statewide accounting system would appear to help clarify the present adequacy of the program. The draft fee demonstration submittal in December of 2014, finalized on February 12, 2015, helped to better understand the staffing allocation at LDEQ.

³ See Question 1.B and response in Appendix A Pages A-5 and A-6 and the Exhibits referenced therein for a more detailed discussion of the types of fees paid by Title V subject sites.

V. Recommendations

- We want to emphasize that LDEQ should continue to collect fee revenue sufficient to cover the reasonable direct and indirect costs for its Title V program, and that Title V revenue should not be used for any other purpose except to fund the Title V permitting program and any excess revenue should not be subject to reallocation to other environmental regulatory programs or State government uses. LDEQ should continue to maintain detailed accounting records to document that all fees collected from Title V source emission fees and other fees (ex. application fees, air toxic fees) that are used to support the Title V program are paid by Title V permitted sources and that those fees adequately support the implementation and enforcement of Title V permits in Louisiana.
- We acknowledge receipt of LDEQ's finalized Title V fee demonstration dated February 12, 2015. We would also recommend that the LDEQ make routine projections over time to assure that the ongoing mix of fees from Title V subject sources will continue to meet the total direct and indirect costs of the Title V program in Louisiana.

Topic	Fiscal Year					
	2009		2010		2011	
	Value	Percent of Total	Value	Percent of Total	Value	Percent of Total
Annual Monitoring and Maintenance fees (Exhibit 10d)	\$ 4,387,502		\$ 4,555,171		\$ 4,736,594	
Count of Title V Sources (Extracted from EPA Exhibit 1)	506		541		532	
Title V funded FTEs (Exhibit 18)	64.2		69.1		62.7	
Permit Application Fees (Exhibit 10c)	\$ 794,923	10.1%	\$ 2,099,251	24.2%	\$ 1,535,210	18.7%
Criteria Pollutant fees (Title V) (Exhibit 1A)	\$ 4,672,395	59.1%	\$ 4,467,535	51.5%	\$ 4,028,321	49.2%
Total Title V Invoice Fees (Pmt app + Criteria Fees)	\$ 5,467,318		\$ 6,566,786		\$ 5,563,531	
Expenditures from Exhibit 9	\$ 7,813,902	100.00%	\$ 8,462,470	108.30%	\$ 7,974,306	102.05%
Expenditures less Total Title V Invoice Fees	\$ (2,346,584)		\$ (1,895,684)		\$ (2,410,775)	
Allocation from Annual Mont. & Maint.	\$ 2,346,585	29.7%	\$ 1,895,684	21.9%	\$ 2,410,775	29.4%
Total Expenditures for Title V program	\$ 7,813,902		\$ 8,462,470		\$ 7,974,306	
Reported Tons for Title V facilities (Exhibit 9)	370565	100.00%	339668	91.66%	303940	82.02%
Estimated Cost per Ton of Criteria Pollutants	\$ 21.09		\$ 24.91		\$ 26.24	
Count of Title V Site Expedited Permit Project (Exhibit 20)	60		118		88	
Additional Costs for Expedited Permits at Title V sites (Exhibit 20)	\$ 89,096	1.1%	\$ 210,043	2.4%	\$ 217,057	2.6%
Estimated Cost per Ton of Criteria Pollutants with Expedited Permit Projects costs included	\$ 21.33		\$ 25.53		\$ 26.95	

Topic	FY 2009		FY 2010		FY 2011	
	LDEQ	FCAA	LDEQ	FCAA	LDEQ	FCAA
Current Cost (Per Ton of Criteria Pollutants)	\$ 21.09		\$ 24.91		\$ 26.24	
LDEQ Original Fee Demonstration in 1993	\$19.00	\$28.43	\$19.00	\$28.43	\$19.00	\$28.43
CPI Adjustment (to FY from beginning)	153.89%	153.89%	154.17%	154.17%	156.45%	156.45%
LDEQ Original Fee CPI adjusted to fiscal year	\$29.24	\$43.75	\$29.29	\$43.83	\$29.73	\$44.48
Amount by which current LDEQ fee is below Original LDEQ CPI adjusted fee demonstration and FCAA CPI adjusted presumptive minimum.	\$8.15	\$22.66	\$4.38	\$ 18.92	\$3.49	\$ 18.24

APPENDIX A

**Title V Program Fee Audit
of the
Louisiana Department of Environmental Quality
by the
Environmental Protection Agency Region 6**

EPA Questions and LDEQ Responses

EPA Summary and Conclusions

February 2015

Appendix A

I. Background

Source of questions and process of response

EPA Region 6 forwarded an initial set of questions to the LDEQ on March 16, 2012, in general, asking for information addressing the years 2008, 2009, and 2010. The LDEQ provided their responses in writing to the EPA on May 9, 2012. During the review of the response from the LDEQ, the EPA elected to focus their review on fiscal years 2009, 2010, and 2011. The LDEQ responded timely to the initial set of questions on May 9, 2012. Upon review of the responses, the EPA posed to the LDEQ an additional 33 follow-up questions on June 20, 2012.

A teleconference was held on July 12, 2012 to discuss the supplemental questions with the LDEQ. In lieu of traveling to Baton Rouge, a second teleconference/webinar was held on August 8, 2012. The purpose of the second webinar/teleconference was to review data online with the LDEQ. During this electronic meeting many of the answers to the supplemental questions were provided by the LDEQ in the form of real time data extracts and reports. Following the webinar, the LDEQ submitted their supplemental question responses in writing on August 15, 2012.

The EPA requested additional organizational charts and FTE data from the LDEQ, which was provided by the LDEQ on September 6 and 11, 2012. While reviewing the LDEQ follow-up responses, the EPA recognized that the level of effort expended on expedited permitting projects undertaken at Title V subject sources was not included in the materials provided by the LDEQ in either of their responses. The EPA contacted the LDEQ requesting information on these projects as they represent a Title V program level of effort that should have been included. The LDEQ responded with two additional information sources: a listing of each Title V permit developed under the expedited permit program for FY 2009, 2010, and 2011, with total cost per project included that was provided on September 9, 2012, and a list of all expedited permit projects, whether conducted at Title V subject sources or not that was provided on September 19, 2012.

The questions posed, answers provided, and EPA's evaluation of those responses are provided in this document. In total, the LDEQ supplied 39 Exhibits and several additional supporting documents related to their answers to these questions. The EPA provided one Exhibit. These Exhibits are provided only electronically in association with this report due to their size. A complete list of Exhibits is found in Section IV of this document.

Topic areas addressed in the questions posed

There were 43 questions, some multi-part, addressing eight primary topic areas originally sent to the LDEQ. The EPA submitted 33 follow-up questions, and two additional information requests, which the LDEQ answered timely. These topic areas have been carried forward from previously conducted LDEQ fee audits. The eight topic areas of questions are as follows:

1. Split of 105 vs Title V
2. Current Title V Resources
3. Fees Calculated
4. Collections Tracked
5. Billing Process
6. Revenue Allocated
7. Current Program Costs (FTE and OH)
8. Cost of "Effective" Program (Resources to address backlog/renewals)

II. Summaries, Conclusions, and Recommendations by Topic Area

Topic 1. Split 105 vs Title V

Revenues – EPA verified that Title V revenues are accounted for separately from non-Title V by using special Revenue tracking codes and billed separately from other fees. LDEQ’s response provided that the Title V fees have been uniquely identified beginning in their Fiscal Year 2004-2005. The Title V revenue code is revenue object 1560-29. See Exhibit 17.

Expenditures – LDEQ uses the Reporting Category Field (RCAT field) in their accounting system to code all expenditures that are Title V activities. The Title V expenditure code is RCAT 3034. This code is used with all expenditures types for Title V activities, i.e, salaries, related benefits, travel, etc. See timesheets that were provided in Exhibit 7. However, costs associated with the expedited permit Program were not included. See EPA Final response to Follow-up question 1B of Appendix A for a full treatment of the expedited permit program.

EPA conclusion and recommendation: The Title V program requires state air quality agencies to segregate Title V resources from other air quality programs including the Section 105 matching grants, which cannot be used for Title V purposes nor can Title V fees be used to meet the 105 grant match requirements. Title V also requires that Title V fees be spent solely on Title V activities. LDEQ has unique accounting tracking codes to ensure this requirement is met and adequate reporting to assure that those funds are properly utilized. Due to the increasing reliance on Monitoring and Maintenance fees to make up the shortfall left after all Title V emissions and permitting fees have been applied would warrant a projection to assure that Section 105 grant matching requirements will be met in the future without tapping Title V fees to do so.

Topic 2. Current Title V Resources

EPA reviewed a current copy of the Louisiana Administrative Code, (LAC) 33:III, Chapter 2 – Rules and Regulation for the Fee System of the Air Quality Control Program from their Web Site:

<http://www.deq.louisiana.gov/portal/DIVISIONS/LegalAffairs/RulesandRegulations.aspx>

The LDEQ also provided copies of the fee increase and change rules that were adopted in 1997, 2000, and the two fee increase rules adopted in 2003, which identify all the fee rule changes since the approval of LDEQ Title V program in 1995. See Exhibit 22 – LDEQ Fee Rule Adoptions 1997 through 2003. It is unclear at the present how the fees associated with the air toxics and expedited permits programs currently interplay with work done to support the Title V program, yet it would appear that both of these programs require a level of effort that directly affect permitting at Title V subject sites.

The LDEQ now has a database application used to actually build their permits (TEMPO) and also the Electronic Document Management System(EDMS) which helps automate the implementation of the Title V program significantly. Both of these systems are new since the program was approved in 1993. These systems both generate efficiencies and add costs to the program that can now be fully characterized since both have been operational for several years. This same thing is true for the expedited permits program and the current implementation of the toxics program in Louisiana.

EPA conclusion and recommendation: The systems in place now appear to make tracking and projecting workloads significantly more reliable and accurate than what was available in 1993. It is recommended that the level of effort for the program elements that have been added be documented and the effect on the Title V program implementation clarified.

Topic 3. Fees Calculated

The LDEQ also provided a complete listing of fees collected at Title V sites. See Exhibit 1A - Title V Fees by Fiscal Year by Facility, Exhibit 1B - Other Air Fees by Fiscal Year for Title V Facilities, and EPA Exhibit 1 – Title V Site Revenues by Site and Fiscal Year for a compilation of all fees reported collected for Title V sites in each of 2009, 2010, and 2011 fiscal years.

Emissions Fees Invoices. Sample invoices were provided that reflected fee schedules (See Exhibit 2 - FY12 Title V Invoices 07-22-11 for FY 2012 and Exhibit 2A – FY11 Invoices 10-18-10 for FY 11 for emissions invoices for both criteria pollutant and Air Toxic pollutant emissions). Actual emissions records are required from companies by their annual emission inventory per LAC 33:III.919 – Emissions Inventory. This information is to be submitted and certified ‘as true and accurate’ by a responsible official at each of the facilities.

Invoices for fees other than criteria pollutant emissions fees. The LDEQ system for generating invoices, billing, and, reporting is very good. See Exhibit 10a through 10e for a summary of each invoice, and each summary provides the method used to actually calculate the fee.

EPA conclusion and recommendation: EPA reviewed invoices to determine how fees were calculated and billed by LDEQ. The fee calculations were billed in accordance with the stated procedures. The systems that LDEQ has put in place to aid in its fees calculated and invoices should also be used to track the expedited permit program costs as well.

Topic 4. Collections Tracked

Title V invoices are maintained by company, invoice number, and the total amount billed. Payments are received and recorded by invoice number. When the invoice is created, it is identified in LDEQ’s system as a Title V fee. When payments are posted, the revenue code is embedded in the system for the accounts receivable process. LDEQ accounts for Title V revenues for Title V by unique revenue tracking codes. EPA determined sources are paying the total amount due including late fees. No example invoices were provided for expedited permit projects.

EPA conclusion and recommendation: The systems in place to track collections is excellent, and permits the LDEQ to minimize late payments, and to aggressively pursue resolution of payments. The recommendation is solely to include the expedited permits program in this process.

Topic 5. Billing Process

LDEQ provided invoices and EPA verified the calculated air maintenance fees, and determined the fees agree with the amounts billed. All Title V fee billings are mailed at the same time except from any adjustments made during the year. We found only one adjusted invoice mailed at a different time. The facility has 30 days from the date of the invoice to pay. Second and third notices are mailed to companies with outstanding invoices periodically during the fiscal year. Failure to pay can result in referral to the Legal Affairs Division for further action. A fiscal review is performed prior to the approval of any permits or permit modifications. Approval is withheld until all outstanding fees are paid by the company.

While Exhibit 20 - Title V expedited permits 2009 thru 2011 was provided that listed total amounts by Site for expedited permits costs, there were no actual calculations provided to show how those totals were derived. In addition, Exhibit 21 - 2009 - 2011 All expedited permit Projects would appear to include projects that were not part of Exhibit 20, therefore it is uncertain whether all expedited permit projects conducted at Title V sites were properly billed.

EPA conclusion and recommendation: Same as in Topic 4 above.

Topic 6. Revenue Allocated

The LDEQ did provide account balances as requested (Exhibit 6A). The LDEQ provided a Title V Budget document in 2009 (previously provided to the EPA, now designated as Exhibit 22 – LDEQ 2009 Title V Budget), and they provided Exhibit 9 - Expenditures and Revenue for Title, and Exhibit 18 – Title V FTEs. The LDEQ did not include the revenues from the air toxics program or the expedited permit program in the revenues, nor did it appear to include the proportionate cost of those programs as expenses.

The LDEQ provided example timesheets. We questioned the delay in manager signoff that we noted in some cases. In some cases, the delay between timesheet submittal and manager signoff might be weeks. This issue was also noted by the Louisiana State Auditor’s office in their Procedural Report issued July 5, 2012 (Audit Control # 80110053).

EPA conclusion and recommendation: Same as in Topic 4 above.

Topic 7. Current Program Costs (FTE, Other (Lab), and OH)

Based upon revenue and expenditure reports provided by LDEQ, their Exhibit 9, Title V fees are not sufficient to cover costs for the program. However, fees generated from the Annual Monitoring and Maintenance fees collected from the Title V sites and deposited into the Environmental Trust Fund supplements Title V program fees to cover the costs of the program. The LDEQ had previously drawn funds from General Revenue to cover these costs. The LDEQ has been actively working to eliminate reliance on General Revenue to fund its programs and hoped to do so completely by FY11.

As part of ongoing streamlining measures, the LDEQ eliminated the Lab and now shows contract lab analyses as the sole expense under the category “Professional Services.” In addition, the LDEQ reported in their response to recommendations made by the Mercatus Center (Exhibit 24) that streamlining measures had resulted in the outsourcing of the lab and also in the reduction of 12 FTEs in the permitting group as part of efforts to streamline operations. The EPA is uncertain how these activities have affected the costs associated with the Title V program.

EPA conclusion and recommendation: A complete workload allocation as part of a Fee Demonstration under 40 CFR 70.9(b)(5) and (c) is warranted.

Topic 8. Cost of an “effective” Program

LDEQ provided Exhibit 9, Expenditures and Revenue for Title V. From review of this exhibit, it was determined the costs of the program exceed the amount of Title V revenues. Supplemental revenue is provided by other fees collected from Title V subject sites. It was determined from our review, that LDEQ charges fees that in the aggregate and when adjusted by the Consumer Price Index, continue to be below the presumptive minimum identified in Section 502(b)(3) of the Federal Clean Air Act. We reviewed the FTE count by LDEQ Office as well as organization charts for each year. It could not be determined the exact number of people working on Title V permits from the information provided.

EPA conclusion and recommendation: We believe that a full 40 CFR 70.9(b)(5) and (c) Fee Demonstration is warranted.

III. EPA Questions and LDEQ Responses

Topic Area 1. Split of 105 vs Title V

- 1.A. 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)?**

LDEQ original response: Statutory Dedications – Environmental Trust Fund.

EPA final response: LDEQ response is adequate.

- 1.B. How are Title V revenues kept separate from all other state generated revenues? Is LDEQ currently utilizing non-Title V revenues or general appropriations to support the Title V operating permit program or has it done so since FY 2008? If so, please provide details of why non-Title V funds or general appropriations were utilized.**

LDEQ original response: (1). Title V fees are assigned a unique revenue tracking code and billed separately from other DEQ fees. (2). DEQ uniquely identified Title V revenues beginning in Fiscal year 2004-05. (3). Pursuant to 40 CFR §70.9, the department can and does supplement Title V program with other air program fees. LDEQ's Title V fees are the Criteria Pollutants Emission fees for Title V facilities. Under LDEQ's fee structure, Title V facilities also pay other type of air fees including, annual monitoring and maintenance, toxic emissions, permit activity fees, etc.

EPA follow-up questions/response: Since your response in 1.B.(3) above and Exhibit 9- *Expenditures and Revenues for Title V* indicates that Title V emissions fees supply less than half of the revenues needed to adequately fund the Title V program, please provide a listing of each other fee or revenue source that may be used to fund, in whole or in part, the Title V program costs. Provide this data for each year 2008, 2009, and 2010. In addition, please provide a written assessment and calculations used to show the total fees generated by these various fee types and the fraction of each of those fee types funds expended for Title V program related purposes for each of those three years. Provide calculated total Title V expended fees per ton of billable Title V subject sources emissions for each of the three years.

LDEQ follow-up response: Annual Monitoring and Maintenance Fees and Permit Application Fees for Title V facilities may be used to fund the Title V program costs. See Exhibit 10 for data and allocation information.

EPA final response: Exhibit 10 is comprised of several individual tables (Exhibit 10a thru Exhibit 10e) that illuminate the expenses and invoices for air permitting and other fees billed for each of 2009, 2010, and 2011 fiscal years. For consistency across all questions, the EPA asked LDEQ to provide information on fiscal years 2009, 10, and 11. The fiscal year for LDEQ runs from July 1 to June 30 the subsequent year; for example, FY2009 runs from July 1, 2008 through June 30, 2009.

Upon further EPA inquiry, the LDEQ indicated that the expense data provided in Exhibit 10 did not include the personnel costs associated with expedited permit processing program related work conducted at Title V subject sites, nor did they include the air toxics fees.

The air toxics fee was initiated by the LDEQ to pay for the state air toxics program. It is authorized under Louisiana Revised Statute 2060 (R.S. 30:2060) being first adopted into the R.S in 1989 (*Acts 1989, No. 184, §1, eff. June 23, 1989*) and is implemented under Chapter 51 of Title 33 Part III of the Louisiana Annotated Code (33 LAC III: Chapter 51). Each

specifically identified air toxic compound is listed and a fee per ton emitted is charged annually. Where a regulated air toxic is also a criteria pollutant subject to the emissions reporting of Title V, the company must pay only the air toxic cost for the affected criteria pollutant, and these fees are designed to pay for the state air toxics program. The emissions treated as air toxics appear to be neither included in the count of criteria pollutants nor is the company billed for these emissions as criteria pollutants. As a consequence, apparently, neither the emissions, revenues generated, nor the tons of toxic emissions billed as subject to the toxics fees are considered criteria pollutants emitted, 'Title V' revenues, or costs, and so they are not included in any of the information provided by the LDEQ as 'Title V'. It is unclear whether the current 'costs of the Title V program' include the staff resources or activities implementing the state air toxics program; however, they were treated as part of the program in the 1993 fee demonstration made by the LDEQ.

The expedited permit processing program was authorized in 2006 under Title 30 of the Louisiana Revised Statute 2014.5 (R.S 30:2014.5) and implemented by rule (33 LAC I: Chapter 18) in June of 2007. Fiscal year 2008 was the first year the expedited permit program was available in Louisiana.

When a company requests that a permit action be handled under the expedited permit program, the company agrees to pay the costs actually incurred for the time taken by staff to work on the project on an hourly basis, which is 100% of the overtime costs incurred. (See 33 LAC I: Chapter 18). The company may agree to pay for an unlimited amount of overtime work, or they may agree to pay only for a limited number of overtime hours towards the project prior to the project being accepted into the expedited permit program.

Each specific project accepted into the expedited permit program is assigned a unique RCAT tracking code, and specific staff are assigned to work on the particular project. Staff account for their actual expended time (each hour or fraction of an hour) on the project, typically conducted outside of their normally scheduled worktime. At the completion of the project, the company is billed directly for the costs associated with that tracking code, and those costs are solely the total of the hourly rate summed for the number of hours and fractions of hours worked on the project by the assigned staff. These are costs that are in addition to the normally charged permit application fee, and they are tracked and billed separately from any other fees charged by the LDEQ. It should be noted that both the statute and rules implementing the statute allow for contractors to perform the work related to the expedited permit processing program.

The LDEQ neither considers the revenues generated as 'Title V' revenues or fees nor considers the costs incurred "Title V" costs. Since the state considers this a pass through, direct reimbursement program, with no cost to the state, it does not include the level of effort and costs in any reports showing revenues and costs associated with the Title V program.

Subsequent to the submittal information response by the LDEQ, the EPA specifically requested an accounting of the costs incurred and revenues generated from projects worked under the expedited permit program for each of FY 2009 through 2011. LDEQ provided the listing, which is included as Exhibit 20.

The EPA also asked for a complete listing of all expedited permit program related projects, including those conducted at sites not subject to Title V for each of the three fiscal years (2009 through 2011) and that listing is shown in Exhibit 21.

With the Expedited Program costs and expenses included, the EPA believes that the LDEQs response to this question is adequate.

1.C. How do you account for excess monies (if any) collected for the Title V program?

LDEQ original response: The department has not collected any excess monies for the Title V program for FY2008-09, FY2009-10 and FY 2010-11.

EPA final response: LDEQ response is adequate.

1.D. What mechanism(s) is LDEQ using to differentiate Title V activities from non-Title V activities?

LDEQ original response: Expenditures and revenues have unique accounting codes that identify Title V activities separate from other activities in the accounting system.

EPA follow-up questions/response: Please provide a listing of those codes and their explanation for each specific expenditure and revenue type.

LDEQ follow-up response: The Title V revenue code is revenue object 1560-29. The air annual monitoring and maintenance fee is 1560-01 and the permit application fee is 1560-02. The Title V expenditure code is Reporting Category 3034. This reporting category is used with all expenditure types for Title V activities, i.e. salaries, related benefits, travel, etc.

EPA final response: LDEQ response is adequate for all but the air toxics program and expedited permit program, which was not addressed in this response See the response to Question 1.B, above.

1.E. 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.

LDEQ original response: Yes. LDEQ's uses the RCAT field in the state's accounting system to code all expenditures that are Title V activities.

EPA follow-up questions/response: Are the same expenditure codes used in each organizational unit of LDEQ 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 LDEQ that uses them. Include each expenditure code that may be used to support Title V related activities.

LDEQ follow-up response: The Title V expenditure code is Reporting Category (RCAT) 3034. This reporting category is used with all organization units and expenditure types for Title V activities, i.e. salaries, related benefits, travel, etc. Organization units that use the Title V RCAT are:

- Enforcement Division
- Surveillance / Inspections Division
- Assessment Division
- Permit Support Services Division
- Air Permits Division

EPA final response: LDEQ response is adequate for all but the air toxics program and expedited permit program, which was not addressed in this response. See the response to Question 1.B, above.

1.F. Does the LDEQ keep separate records that identify Title V monies collected from other non-Title V permitting program fees?

LDEQ original response: Yes. LDEQ uses the Revenue Object code field in the state's accounting system to identify all revenues collected by fee type.

EPA follow-up questions/response: Are the Revenue Object codes the same for each of the revenue streams used throughout all of the LDEQ? Please provide a comprehensive listing of all such codes and their descriptions and indicate each of the organizational units within the LDEQ use them. Include each revenue code whose funds may be used to support Title V related activities.

LDEQ follow-up response: The Title V revenue code is revenue object 1560-29. The air annual monitoring and maintenance fee is 1560-01 and the permit application fee is 1560-02. Organization units that have Title V expenditures are:

- Enforcement Division
- Surveillance / Inspections Division
- Assessment Division
- Permit Support Services Division
- Air Permits Division

EPA final response: LDEQ response is adequate for all but the air toxics program and expedited permit program, which was not addressed in this response. See the response to Question 1.B, above.

1.G. What are the amounts of 105 grant funds received in FY 2010 and FY 2011 respectively?

LDEQ original response: Sec 105 funding is part of the PPG. Funds awarded in the FY10 (10/01/09-09/30/10) grant were \$2,800,157. Funds awarded in the FY11 (10/01/10-09/30/11) grant were \$2,444,358.

EPA final response: LDEQ response is adequate.

1.H. What are the amounts of 105 grant funds used in FY 2010 and FY 2011 respectively?

LDEQ original response: LDEQ draws federal dollars on a reimbursement basis. Therefore, this is the same as "G" above.

EPA final response: LDEQ response is adequate.

1.I. What are LDEQ's source(s) of 105 matching funds? Please discuss.

LDEQ original response: Statutorily dedicated Environmental Trust Fund fees are used to match 105 grants. These fees include air monitoring and maintenance, permit activity fees, toxic emission fees, etc.

EPA follow-up questions/response: Please provide total funds by accounting code for each category or source of matching funds for each of year 2008, 2009, and 2010.

LDEQ follow-up response: The state's accounting system is not set up to track detail at this level.

EPA final response: The LDEQ response may not be adequate. The LDEQ must be able to demonstrate that no 105 grant matching monies may be paid for with Title V fees. The increasing reliance on draws from the air monitoring and maintenance fees to fund the un-

met costs of the Title V program that are greater than their dedicated Title V emissions fees as demonstrated in Exhibit 10 may result in Title V fees being used to match 105 grant awards in the future. At present, this appears that it may be possibly occur in the future. It is also unclear how the air toxics fees affect this issue.

1.J. 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.

LDEQ original response: The state's accounting system includes a reporting module titled Business Objects (SAP). Periodic reports are run to identify Title V revenue and expenditures as discussed in 1E and 1F.

EPA follow-up questions/response: Please provide a copy of a SAP report that provides the revenues and expenses total for each of 2008-2010 for each accounting code. Will that report agree with what is reported in Exhibit 9? How is the accuracy and completeness of the report determined?

LDEQ follow-up response: Exhibit 11 is the Business Objects Title V Expenditure Report. Exhibit 9 is for FY2009 through FY2011, so we are including FY2009 through FY2011 on Exhibit 11. Yes, it agrees to the direct expenditures on Exhibit 9. The Business Objects report pulls data from the state's financial data mart that is updated nightly from the state's accounting system. Verification of the data mart to the state accounting system is done at a statewide level at the Division of Administration.

EPA final response: LDEQ response is adequate for all but the air toxics program and expedited permit program, which was not addressed in this response. See the response to Question 1.B, above.

Topic Area 2. Current Title V Resources

2.A What section of your regulation defines the LDEQ's fee collection authority and rate(s)?

LDEQ original response: Application fees are provided by LAC 33:III.207. PSD, NSPS, and air toxics surcharges are described in LAC 33:III.211.A. Annual maintenance fees are provided by LAC 33:III.209. NESHAP surcharges are described in LAC 33:III.211.A.

LDEQ's fee methodology is described in LAC 33:III.211.B, and the fee schedule listing is set forth in LAC 33:III.223. Fee numbers 2200, 2300, and 2310 are LDEQ's annual fees per ton emitted.

EPA follow-up questions/response: What are each of the additional fees that are being or may be used to fund Title V purposes? Which, if any, of these additional fees have been in place since the original Title V program approval? Has the basis or amounts of any of these fees that were relied upon in the original Title V program approval changed? Please describe. 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. 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.

LDEQ follow-up response: Permit application fees and annual maintenance fees are used to fund the Title V program. Both have been in place since the original Title V program approval on September 12, 1995 (60 FR 47296).

A rule entitled “Fee Adjustment for Title V Permit Program” was promulgated on November 20, 1997. This rule increased the fees listed in Table 1 of LAC 33:III.223 and several listed in Table 2 of §223 (i.e., fee numbers 2000, 2010, 2200, and 2300) by 8%. See “AQ153fin.pdf” attached. Several fee numbers were added to §223 on February 20, 2000. The fees associated with “crude oil and natural gas production” were also revised at this time. See “AQ195fin.pdf” attached. An across-the-board fee increase of 20% was effective July 1, 2002, and a 10% across-the-board fee increase was effective July 1, 2003. See “OS041fin.pdf” attached.

There are no fees that have been adopted since the original Title V program approval, other than those described above, that are now relied upon to fund any aspect of the Title V program. None of the fees used to pay for the Title V program are dedicated by law to non-Title V program areas.

EPA final response: LDEQ response is adequate for all but the air toxics program and expedited permit program, which was not addressed in this response. See the response to Question 1.B, above.

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

LDEQ original response: Per LDEQ’s TOPS report submitted to EPA on January 30, 2012, Louisiana has 513 Part 70 sources operating under 750 Title V permits.

EPA follow-up questions/response: The TOPS data and Exhibit 4 data show markedly different counts of Title V sources. Please explain.

LDEQ follow-up response: The number of “Title V Criteria Pollutants” invoices shown in Exhibit 4 is only slightly higher than the number of Part 70 sources (513) reported to EPA via LDEQ’s January 30, 2012, TOPS submittal. There are several explanations.

- 1) Multiple invoices may be associated with a single Part 70 source. For example, if the ownership of a facility changes during the reporting year, the former owner and the current owner would be invoiced separately. Further, if a Part 70 source revised its emissions estimates from a previous calendar year (e.g., to reflect the results of a stack test), the owner or operator would receive a new invoice for the difference between the revised and originally reported emissions.
- 2) The number of Part 70 sources is not static. If a facility operated under a Part 70 permit for any portion of the year, that facility would receive a “Title V Criteria Pollutants” invoice. If the facility subsequently reduced its potential to emit below major source thresholds and obtained a state permit, it would not be considered a Part 70 source for TOPS purposes.

EPA final response: LDEQ response is adequate.

2.C. Provide a list of Title V permittees and fee revenues generated from each of these permittees.

LDEQ Original Response: See Exhibit 1A - Title V Fee for Title V Facilities and Exhibit 1B - Other Air Fees for Title V Facilities

EPA Follow-up Questions/Response: Provide the revenue totals by accounting code for each year and source in Exhibit 1B. Expand exhibit to include each related fee charged per source that is used, in part, to fund Title V related activities. For permitting action related

fees, also provide the total number of permit actions by action type per source for 2010, and the total associated fees by permitting action type for the source as well.

LDEQ follow-up response: See Exhibit 10.

EPA final response: LDEQ response is adequate for all but the air toxics program and expedited permit program, which was not addressed in this response. See the response to Question 1.B, above.

2.D. Provide examples of the calculations of actual emissions for fee purposes.

LDEQ original response: On our March 23, 2012, conference call, Mr. Jeff Robinson clarified that EPA seeking to determine how the invoiced amount is calculated based on the emissions reported. These calculations are provided on the individual invoices.

For example, in 2011, Gulf South Pipeline Company reported that its Montpelier Compressor Station (AI 71) emitted 5.22 tons of PM₁₀, 0.07 tons of SO₂, 351.20 tons of NO_x, and 31.04 tons of VOC in calendar year 2010. For invoicing purposes, emissions are rounded to the nearest ton.

Therefore, the annual fee for this facility, \$4965.21, was calculated as follows:

PM10:	5 tons * \$12.83/ton = \$64.15
SO2:	0 tons * \$12.83/ton = \$0.00
NOX:	351 tons * \$12.83/ton = \$4503.33
VOC:	31 tons * \$12.83/ton = \$397.73

$\$64.15 + \$0.00 + \$4503.33 + \$397.73 = \$4965.21$

EPA follow-up questions/response: Please expand your response to show the method of billing of each additional revenue of any type that is charged to sources that may fund Title V related activities.

LDEQ follow-up response: See 'Assessment Details' column in Exhibit 10.

EPA final response: LDEQ response is adequate for all but the air toxics program and expedited permit program, which was not addressed in this response. See the response to Question 1.B, above. Upon further inquiry, LDEQ did provide the total price for apparently some but not all of the expedited permit Project at Title V subject sources for FY 2009, 2010, and 2011 (see Exhibit 20 for the costs, and Exhibit 21 for a listing of all expedited permit project, and EPA Exhibit 1 to see this information compiled into a single spreadsheet). The LDEQ did not provide the calculation details for them.

2.E. Provide an example of emission inventory request letter.

LDEQ original response: LDEQ does not generate emission inventory request letters. LAC 33:III.919 requires owners or operators of facilities described in §919.A to report actual emissions to LDEQ by April 30 of each year (reporting emissions from the previous calendar year).

In each Title V permit, LDEQ includes a Specific Requirement (SR) under the Unit or Facility Wide (UNF) subject item (representing the entire facility or process unit addressed by the permit) requiring the owner or operator to submit an annual emissions inventory. The current version of this SR reads as follows:

Submit Emission Inventory (EI)/Annual Emissions Statement: Due annually, by the 30th of April to the Office of Environmental Services, for the reporting period of the previous calendar year that coincides with period of ownership or operatorship, unless otherwise directed by DEQ. Submit both an emissions inventory and the certification statement required by LAC 33:III.919.F.1.c, separately for each AI, in a format specified by DEQ. Include the information specified in LAC 33:III.919.F.1.a through F.1.d. [LAC 33:III.919]

EPA follow-up questions/response: Please provide a response to this question, broadening it to include all other fee or surcharge request notifications, if any, whose funds may be used to pay for any Title V related activities.

LDEQ follow-up response: Permittees receive invoices for annual maintenance fees, and examples of such have been provided to EPA. Permit application fees must accompany the permit application (LAC 33:III.211.B.1). Invoices for permit application fees are generated only when the fee submitted with the application is less than that required by LAC 33:III.Chapter 2. In this event, the applicant would receive an invoice for the difference between the appropriate fee and the amount remitted. Air quality regulations preclude issuance of a permit until the appropriate application fee has been paid. See, for example, LAC 33:III.207 and 501.C.2.

EPA final response: LDEQ response is adequate. Examples have been provided of how the air toxics fees are calculated and billed, but not for the expedited permit projects. These type of fees should have also been included in the response, as described in 1.B. above.

2.F. Provide source bills for the last three months.

LDEQ original response: DEQ only generated one Title V fee invoice in the past three months. The bulk of the Title V fees invoices were generated on July 22, 2011. Therefore we have included those in Exhibit 2 – *Title V Invoices 7/22/11*.

EPA follow-up questions/response: Only one fee invoice was generated during the past three months. Is there a specific reason why only one fee invoice was done in the last three months?

Air Liquide (AI 1093) was billed twice on 7/22/2011, REP 20100006 and REP 20100007. Why are two used here? Also, Cleco (AI585) appears to have no Title V EI annual fee, no toxics, but has criteria pollutants, etc. Did this get billed correctly?

Please provide the source bills for 2011 as you have for 2012.

LDEQ follow-up response: As stated in our response, DEQ's Title V fees were billed on July 22, 2011. The only Title V invoices that were issued other than July 22, 2011 were for adjustments made during the year. Only one adjusted invoice was issued on the dates you specified in your request.

Cleco was billed its criteria pollutant fee correctly. It was missing a requirement in TEMPO which caused the fee to be misclassified. QA/QC tools are being used to mitigate these issues. This was discussed in the conference call on August 8, 2012.

The 2011 source bills are in Exhibit 2a.

EPA final response: LDEQ response is adequate.

Topic Area 3. Fees Calculated

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

LDEQ original response: Criteria Pollutant Annual Fee is \$12.83 Per Ton Emitted on an Annual Basis (Title V Facility) for:

Nitrogen oxides (NO_x)
Sulfur Dioxide (SO₂)
Non-toxic organic (VOC)
Particulate (PM₁₀).

EPA follow-up questions/response: Please show the formula for calculation of each additional fee that may be used to fund Title V related activities. In addition, since LDEQ does not charge the presumptive fee listed in 40 CFR 70.9, please demonstrate how the actual revenues collected are and are projected to be sufficient to cover the cost the Title V program.

LDEQ follow-up response: See ‘Assessment Details’ column in Exhibit 10. DEQ adjusts the annual monitoring and maintenance fee allocation as needed to cover Title V Program cost.

EPA final response: LDEQ response is adequate except for the air toxics program expedited permit program costs disclosures, as described in Question 1.B, above. The referenced Exhibit is Exhibit 10E.

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

LDEQ original response: Yes, Fees will not be assessed for emissions of a single criteria pollutant over and above 4,000 tons per year from a facility. Criteria fees will be assessed on actual annual emissions that occurred the previous calendar year. The minimum fee for this category shall be \$132. (LAC 33:III.223 Note 14)

EPA final response: LDEQ response is adequate.

3.C. How do you determine the actual emissions for fee purposes?

LDEQ original response: Actual emissions are based on calculations supplied by companies. Major sources are required to submit annual emission inventory per LAC 33:III.919-Emissions Inventory.

EPA follow-up questions/response: Provide examples of how actual emissions are verified by the LDEQ. For example, when emissions are based on throughput, how does LDEQ verify the production/throughput rates accurate?

LDEQ Response: LAC 33:III.919.F.1.a.ii requires the owner or operator of an affected facility to submit detailed process information, including throughput, as part of its emissions inventory. In accordance with LAC 33:III.919.F.1.c, which is repeated below, this information must be certified as “true and accurate” by a responsible official.

Certification Statement. A certification statement, required by Section 182(a)(3)(B) of the federal Clean Air Act, shall be signed by a *responsible official*, as defined in LAC 33:III.502.A, for the facility or facilities and shall be submitted for each emissions inventory to attest that the information contained in the inventory is true and accurate to the best

knowledge of the certifying official. The certification statement shall include the full name, title, signature, date of signature, and telephone number of the certifying official.

Additionally, emissions inventory data from each facility is compared to its prior year submittal. Significant changes in the amount of emissions reported are investigated further.

EPA final response: LDEQ response is adequate.

Topic Area 4. Collections Tracked

4.A. Discuss how incoming payments are recorded to the appropriate accounts.

LDEQ original response: Invoices are maintained by company, invoice number, and the total amount billed. Payments are received and recorded by invoice number. When the invoice is created, it is identified in DEQ's system as a Title V fee. Refer to question 1(B) for tracking information. When payments are posted, the revenue code is embedded in the system for the accounts receivable process.

EPA follow-up questions/response: Please provide a copy for two companies listed below (copy of payment, record of where it is recorded in the environmental trust fund with the revenue code reflected).

EPA follow-up question: FY 2011, #32629, Delta Duck Club CF#5 Tank Battery #3 Facility, for \$1,206.

LDEQ Follow-up response: We assumed the FY2011 is a typographical error since their invoice for FY2010 is \$1,206. We included the information in Exhibit 12 for the FY2010 invoice.

EPA follow-up question: FY 2009, #1338, International Paper Co.- Louisiana Bastrop Mill, \$58,582. Why did the amount go down to \$44,764 in FY 10, and down to \$654 in FY 11?

LDEQ Follow-up response: Facility was shutting down during this period.

EPA follow-up question: FY2009 -2011 fees varied widely. How do you verify the accuracy?

LDEQ Follow-up response: See the response to 3C above.

EPA follow-up question: AI 286: Exxon Mobil Chemical. Please explain how the fees (title V and each non title V fee) are calculated for each of the three years, 2008 thru 2010.

LDEQ Follow-up response: See 'Assessment Details' column in Exhibit 10.

LDEQ response: See Exhibit 12 and responses behind each question above.

EPA final response: LDEQ response is adequate.

4.B. Are sources paying the total fees charged each year?

LDEQ original response: Yes, less than 1% of the Title V fees are past due for the past 3 years.

EPA follow-up questions/response: It appears in most cases the sources are paying the total fees charged each year based upon Exhibit 4. What are the adjustments?

EPA follow-up question: Was \$13 written off in 2011?

LDEQ follow-up response: No, it was a correction of a posting error.

EPA follow-up question: What are the other payment adjustments shown in Exhibit 4? What are the “recently adjusted emissions being invoiced in the past 30 days” shown on Exhibit 4?

LDEQ follow-up response: Amended emission reports were received that required an adjusted invoice to be issued.

EPA follow-up question: 4C and 4H reports are mentioned, but not provided...please explain. **LDEQ follow-up response:** We were not referring to exhibits but rather answer to questions 4C and 4H.

LDEQ follow-up response: See Exhibit 13- Invoice and Payment Adjustments

EPA final response: LDEQ response is adequate.

4.C. Are sources paying on time?

LDEQ original response: Yes, Less than 0.5% of the Title V fees are past due for the FY09 (\$132), FY10 (\$0) & FY11 (\$657).

EPA final response: LDEQ response is adequate.

4.D. What procedures are maintained for collection of outstanding Title V revenues?

LDEQ original response: Second and third notices are mailed to companies with outstanding invoices periodically during the fiscal year. Failure to pay can result in referral to the Legal Affairs Division for further action.

A fiscal review is performed prior to the approval of any permits or permit modifications. Approval is withheld until all outstanding fees are paid by the company.

EPA follow-up questions/response: Does this process or a similar process apply also to fees or surcharges, other than Title V emissions fees?

LDEQ follow-up response: Yes

EPA final response: LDEQ response is adequate.

4.E. Are late fees being assessed?

LDEQ original response: Yes, each invoice remittance ticket includes the fee amount due, the amount due if paid 45 days after the invoice date (fee + 5%), the amount due if paid 60 days after the invoice date (fee + 10%), and the amount due if paid 90 days after the invoice date (fee + 15%)

EPA follow-up questions/response: Are additional late fees calculated for each month until the fee is actually paid or are the late fees increased only until the third late notice?

LDEQ follow-up response: No, the maximum late fee is 15%.

EPA final response: LDEQ response is adequate.

4.F. How are late fees being credited to the Title V accounts?

LDEQ original response: The late fees for Title V accounts have been assigned a unique tracking code in the Accounts Receivable system.

EPA follow-up questions/response: Do these additional late fee codes apply to fees other than late emissions fees at a Title V site? Are the late fees specifically credited to Title V accounts? Please provide documentation.

LDEQ follow-up response: There is a unique revenue late fee code for Title V late fees, 1835-29. As you can see in the original Exhibit 4, Title V late fees are applied to Title V accounts.

EPA final response: LDEQ response is adequate.

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

LDEQ original response: LDEQ does not have Title V Permit Fees. However, a fiscal review is performed prior to the approval of any permit activity. Approval is withheld until all outstanding fees are paid by the company.

EPA follow-up questions/response: Provide details on how any air fees at Title V sources (other than Title V emissions fees) that may be used in part for Title V purposes are billed and received, and the process for collection, tracking, and levying of any late fees associated with such fees.

LDEQ follow-up response: DEQ uses one uniform process for all billing, receiving, collecting, tracking and levying late fees. The process we have already described is the same for all fees. Please see original response to 5B. See Exhibit 3 for our collection process.

EPA final response: LDEQ response is adequate.

4.H. Have all Title V fees been collected for the fiscal years 2010 and 2011?

LDEQ original response: Less than 0.5% of the Title V fees are past due for the FY09 (\$132), FY10 (\$0) & FY11 (\$657).

EPA follow-up questions/response: Please provide totals for each Title V site by accounting code, (revenues and late fees) for each revenue source that may be used to fund Title V related activities.

LDEQ follow-up response: See Exhibit 10.

EPA final response: LDEQ Response is adequate for all but the air toxics program and the expedited permit program, which was not addressed in this response. See the response to Question 1.B, above.

4.I. If there are uncollected Title V fees, how does LDEQ pursue collection of such fees?

LDEQ original response: Exhibit 3 – LDEQ Collection Process

EPA final response: LDEQ response is adequate.

4.J. Do you 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?

LDEQ original response: Same response as 4E above.

EPA follow-up questions/response: Please expand this response to include other air fees at Title V sources that may be used to fund Title V related activities.

LDEQ follow-up response: Same response as 4E above.

EPA final response: Also see 4G. LDEQ response is adequate.

- 4.K. Provide LDEQ’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.**

LDEQ original response: Exhibit 4 – *Title V Fee Invoiced vs. Actual Collections*
Also see Exhibit 3 – *LDEQ Collection Process*

EPA follow-up questions/response: Please expand Exhibit 4 to include each air fee charged and collections for each at Title V subject sources that may be used for Title V purposes, not just Title V emissions fees.

LDEQ follow-up response: See Exhibit 10

EPA final response: LDEQ Response is adequate for all but the fees charged and collections made for the air toxics program and the expedited permit program projects, which was not addressed in this response. See the response to Question 1.B, above.

- 4.L. Provide copies or documentation of examples detailing late fee assessment and recording collection of fees to Title V accounts.**

LDEQ original response: Exhibit 5 – *Invoices and Reports Showing Late Fees Collected*

EPA follow-up questions/response: Please expand this to include all other air related late fees, if any, that may be used to fund Title V related activities.

LDEQ follow-up response: See Exhibit 5b

EPA final response: LDEQ response is adequate for all but the air toxics program and expedited permit program, which was not addressed in this response. See the response to Question 1.B, above.

Topic Area 5. Billing Process

- 5.A. Can you show that sources are billed in accordance with your fee requirements?**

LDEQ original response: Yes. See 2F above and Exhibit 2.

EPA final response: LDEQ response is adequate.

- 5.B. What is the state billing process including notification time frame and receiving and tracking? Please describe.**

LDEQ original response: All Air Permits are maintained by the Air Permits Division of the Office of Environmental Services. This includes the maintenance of permit effective dates, SIC codes, applicable fee codes, and emission inventories needed to bill according to LAC 33:III.223. Once a year, the invoice management section retrieves a list of Title V facilities who reported air emissions and generates invoices based upon the quantities reported.

EPA final response: LDEQ response is adequate.

Topic Area 6. Revenue Allocated

- 6.A. Provide account balances by object/facility codes.**

LDEQ original response: Exhibit 6 – *Title V Invoice Balances by Facility by Fiscal Year*

EPA follow-up questions/response: Please expand your response to include each fee assessed of any type other than Title V emissions fees that may be used to fund any aspect of Title V related activities.

LDEQ follow-up response: See Exhibit 6A

EPA final response: LDEQ response is adequate for all but the air toxics program and the expedited permit program, which was not addressed in this response. See the response to Question 1.B, above.

6.B. How are Title V fees budgeted/allocated by LDEQ?

LDEQ original response: LDEQ budgets Title V fees based on historical Title V activity.

EPA final response: LDEQ response is adequate.

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

LDEQ original response: Title V activities are direct charged to a RCAT as discussed in 1E above. The indirect cost is calculated using the annual EPA-approved rate.

EPA follow-up questions/response: Exhibit 9 provides expenditures. Provide more detail for each expense (e.g., what accounting categories are included in professional services?). Are these directly charged to specific RCAT code, such as one for salaries, benefits, travel, professional services? If so please provide the codes, or if multiple types of services can be coded with a single code, then the list of all expenditure types per accounting code. Will a printout of totals by the specific codes sum to reflect the amounts shown as actuals on your Exhibit 9 report?

LDEQ follow-up response: All direct charges for the Title V expenditures are coded to RCAT 3034. Professional Services is a single accounting category and all expenditures in this category are for laboratory analysis. Prior to FY2010, DEQ operated its own laboratory and this cost was included in salaries and related benefits. Salaries and other compensation are for wages. Related Benefits includes retirement, FICA (if applicable), medicare, and group insurance. Yes, a printout of the totals by specific codes for direct cost will equal the amounts shown in Exhibit 9.

EPA final response: LDEQ response is adequate for all but the expedited permit program, which was not addressed in this response. See the response to Question 1.B, above.

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

LDEQ original response: Exhibit 7 – *Timesheet sample*

EPA follow-up questions/response: It appears that on some of the timesheets, the approval came at least a couple of months after the date of the timesheet. Do you have written procedures for timesheet approvals? Does this practice meet the requirement? Please provide policy and procedures for timesheet approvals, and how you verify compliance with those policies.

What is the cost and/or accounting code(s) employees should be charging on their timesheet for Title V related work? Do these vary by organizational unit within LDEQ?

LDEQ follow-up response: See Exhibit 15 - DEQ Time Entry Sign-in Sheet Policy Title V related work is charged to RCAT 3034 regardless of office or division.

EPA final response: LDEQ has provided information as requested. However, there is not a specific timeframe for supervisor approval which appears to be an issue on the timesheets we reviewed.

6.E. Provide examples of procurement documents, travel vouchers, training, etc. Please include travel vouchers which illustrate dual purpose travel, e.g., where more than one type of facility was visited.

LDEQ original response: Exhibit 8 – *Expenditure* sample.

The majority of goods and services are not direct charged. Rather they are included in the indirect rate that is approved by EPA. Items included in the indirect rate include building rent, fuel, field supplies, vehicle/equipment maintenance, telephone, etc. The only items that are direct charged are lab analysis and travel expense.

EPA follow-up questions/response: Please explain the wide variation in cost for Exhibit 9 Professional Services for the various years. Are lab costs the only professional services?

Since the expedited permit program is new at LDEQ since EPA's original approval of LDEQ's Title V program, how are these revenues and expenses identified?

Provide copies of negotiated indirect cost agreement for LDEQ for 2008, 2009, 2010, 2011, and 2012.

LDEQ follow-up response: Laboratory analysis is the only expenditure in professional services. Prior to FY2010, DEQ operated its own laboratory and this cost was included in salaries and related benefits. Unique RCATs are assigned to each expedited permit request and personnel overtime is charged to this RCAT on the timesheet. Revenue is charged to revenue object 1925-XP. See Exhibit 14 for the negotiated indirect cost agreements.

EPA final response: LDEQ response is adequate.

6.F. Provide account balances by object code for FY 2010 and FY 2011.

LDEQ original response: See 6A above and Exhibit 6 – *Title V Invoice Balances by Facility by Fiscal Year*

EPA follow-up questions/response: Provided by facility code (AI); however, each balance by object code are not provided. Please provide these for FY2008, 2009, 2010, and 2011.

LDEQ follow-up response: See Exhibit 6A

EPA final response: LDEQ response is adequate for the items provided, but should also include the information for the air toxics program and expedited permits program. Part of the information for the expedited permits program was included in Exhibit 20, but it is unclear if this Exhibit included all such projects by facility (See EPA Exhibit 1).

Topic Area 7. Current Program Costs (FTE and OH)

7.A. Please provide a spreadsheet for FY 2010 and FY 2011 documenting LDEQ's annual account receivables and LDEQ's annual expenses for the Title V permitting program. Are LDEQ's current Title V fees sufficient to support the Title V program?

LDEQ original response: Exhibit 9 – *Expenditures and Revenue for Title V.*

Yes. Pursuant to 40 CFR 70.9, the department can and does supplement Title V program with other air program fees. LDEQ's Title V fees plus the other air program fees are sufficient to support the Title V program.

EPA follow-up questions/response: Exhibit 9 reflects the amount of revenue collected from the fee schedule for Title V emissions and the amount required from other types of fees. However, the other fees relied upon to pay for the Title V program costs are not listed. Please list the totals by accounting code.

LDEQ follow-up response: See Exhibit 10

EPA final response: LDEQ response is adequate for all but the air toxics program and the expedited permit program, which was not addressed in this response. See the response to Question 1.B, above.

Topic Area 8. Cost of "Effective Program" (resources to address backlog/renewals)

- 8.A. Provide end-of-year accounting reports that illustrate actual and estimated costs of the program. Provide the FTE and itemized cost estimates LDEQ 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 fiscal year 2010 and 2011) for the last three years.**

LDEQ original response: Exhibit 9 - *Expenditures and Revenue for Title V*

EPA follow-up questions/response: Exhibit 9 is a compiled report. Please provide accounting reports for end of year that include revenues and expenditures by each accounting code, expanding the Exhibit 9 to include these. Please provide that Exhibit 9 updated to include the accounting categories for FY2008, 2009, and 2010. Include each object code and expenditure code that is used, in part or in whole, to fund/expended upon Title V program activities

LDEQ follow-up response: See Exhibit 16 for expenditure report. See Exhibit 17 for revenue report.

EPA final response: LDEQ response is adequate for all but the air toxics program and the expedited permit program, which was not addressed in this response. See the response to Question 1.B, above. The EPA specifically requested that LDEQ provide data for FY2009, 2010, and 2011 for this question for the expedited permits program, which they did (See Exhibit 20) but it is unclear if the provided data included all expedited permit projects at Title V subject sites (See EPA Exhibit 1).

- 8.B. 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?**

LDEQ original response: Exhibit 9 - *Expenditures and Revenue for Title V*

EPA follow-up questions/response: Please expand to include all other fees or surcharges relied upon to pay for Title V related costs, including the expedited permit program related fees and expenses.

In Exhibit 9, please also include total FTE count for each year by LDEQ Office and Division, including each Division that conducts Title V related work, for the fiscal years 2008, 2009, and 2010. Please provide organizational charts for each year.

LDEQ follow-up response: See Exhibit 10 for inclusion of these other fee types. See Exhibit 18 for expenditures by office / division. See Exhibit 19 for FY2009 LDEQ Organization Chart. This is a large document. Please review and verify this contains the information needed. If yes, we will run the document for FY2010 and FY2011.

EPA final response: The provided Exhibit 18 is the number of Title V FTEs per office / division, but expenditure totals by RCAT for the FTEs were not included in the Exhibit. LDEQ also provided organizational charts for each of the fiscal years requested: 2009, 2010, and 2011.

The provided Exhibits (10, 18, and 19) did not include the revenues and costs associated with the air toxics program or the expedited permit program, as described in 1.B. above. LDEQ did subsequently provide Exhibit 20- *Title V expedited permits 2009- 2011* which does provide the cost, by project for each Title V expedited permit during the relevant period.

8.C. Provide a summary of Title V obligations and encumbrances for FY2010 and 2011.

LDEQ original response: LDEQ has no Title V encumbrances or obligations for FY09, FY10 or FY11.

EPA follow-up questions/response: Please provide an explanation detailing why LDEQ has no Title V encumbrances or obligations for FY09, FY10, or FY11.

LDEQ follow-up response: Governmental accounting standards require liquidation of all encumbrances at the end of the fiscal year, i.e. there are no encumbrances at fiscal year end. Salaries, Related Benefits and Travel are never items that DEQ encumbers, leaving only professional services which are the laboratory contracts that are encumbered during the fiscal year but liquidated and carried forward at year end.

EPA final response: LDEQ response is adequate.

IV. List of Exhibits

Exhibit Name/File Name	File Format/Size		Origin	
	Paper	Electronic	PDF	Excel
Exhibit 1A Title V Fees by Fiscal Year by Facility	14	PDF,Excel	LDEQ	EPA
Exhibit 1B Other Air Fees by Fiscal Year for Title V Facilities.pdf	13	PDF,Excel	LDEQ	EPA
Exhibit 2 FY12 Title V Invoices 07-22-11	1440	PDF	LDEQ	
Exhibit 2a - FY11 Title V Invoices 10-18-10	1436	PDF		
Exhibit 3 LDEQ Collection Process	1	PDF	LDEQ	
Exhibit 4 Title V Fees vs. Actual collected	1	PDF	LDEQ	
Exhibit 5 Invoices and reports for late fees	9	PDF	LDEQ	
Exhibit 5b - Invoices and reports for late fees	18	PDF	LDEQ	
Exhibit 6 Title V Invoice Balances	13	PDF	LDEQ	
Exhibit 6a - Invoice Balances - Annual Monitoring and Mtce	29	PDF	LDEQ	
Exhibit 6a - Invoice Balances - Permit Application fees	9	PDF	LDEQ	
Exhibit 6a - Invoice Balances - Title V Criteria Pollutants	29	PDF	LDEQ	
Exhibit 7 Timesheet Sample	24	PDF	LDEQ	
Exhibit 8 Expenditure Sample	61	PDF	LDEQ	
Exhibit 9 Expenditures and Revenue for Title V	1	PDF	LDEQ	
Exhibit 10a - Title V and Supplemental Fees – Summary	1	PDF	LDEQ	
Exhibit 10a - Title V and Supplemental Fees – Summary EPA	1	Excel		EPA
Exhibit 10b - Title V and Supplemental Fees - Title V Fees (Criteria Poll)	28	PDF	LDEQ	
Exhibit 10c - Title V and Supplemental Fees - Permit Application Fees	62	PDF	LDEQ	
Exhibit 10d - Title V and Supplemental Fees - Annual Mont & Mtce Fees	39	PDF	LDEQ	
Exhibit 10e - Title V and Supplemental Fees - Assessment Details	2883	PDF Excel	LDEQ	EPA
Exhibit 11 - Business Objects Report	1	PDF	LDEQ	
Exhibit 12a - AI32629	6	PDF	LDEQ	
Exhibit 12b - AI1338 - FY2009	5	PDF	LDEQ	
Exhibit 13 - Invoice and Payment Adjustments	6	PDF	LDEQ	
Exhibit 14 - Negotiated Indirect Cost Agreements FY08-FY12	10	PDF	LDEQ	

Exhibit Name/File Name	File Format/Size		Origin	
	Paper	Electronic	PDF	Excel
Exhibit 15 - DEQ Time Entry Sign-in Sheet Policy	4	PDF	LDEQ	
Exhibit 16 - Title V Exp by Year-Category-Object	3	PDF	LDEQ	
Exhibit 17 - Report for Title V Revenue	1	PDF	LDEQ	
Exhibit 18 - Title V FTEs	1	PDF	LDEQ	
Exhibit 19a - Org Chart – Secretary	14	PDF	LDEQ	
Exhibit 19b - Org Chart - Mgmt & Finance	22	PDF	LDEQ	
Exhibit 19c - Org Chart - Environmental Compliance	43	PDF	LDEQ	
Exhibit 19d - Org Chart - Environmental Services	20	PDF	LDEQ	
Exhibit 19e - Org Chart - Environmental Assessment 2	35	PDF	LDEQ	
Exhibit 19f - Org Chart FY10	96	PDF	LDEQ	
Exhibit 19g - Org Chart FY11	97	PDF	LDEQ	
Exhibit 20 Title V expedited permits 2009 thru 2011	19	PDF Excel	LDEQ	EPA
Exhibit 21- 2009 - 2011 All expedited permit Projects		Excel	LDEQ	
Exhibit 22 - LDEQ Fee Rule Adoptions 2000 through 2007	168	PDF	LDEQ/EPA	
Exhibit 23 - LDEQ FY09 Title V Budget	1	PDF		EPA
Exhibit 24 - LDEQ Response to Mercatus Center 9 17 09 Recommendations	10	PDF		EPA
EPA Exhibit 1 - Title V Site Revenues by Site and Fiscal Year		Excel		EPA
EPA Exhibit 9 - Title V revenues costs and calculated price per ton criteria pollutants		Excel		EPA
December 2014 draft Fee Demonstration by LDEQ	18	Word/PDF	LDEQ/EPA	
February 12, 2015 Final Fee Demonstration Submittal by LDEQ	18	PDF	LDEQ	