

Fiscal Note for Revision of 15A NCAC 02Q .0203

Rule Citation Number 15A NCAC 02Q .0203

Rule Topic: Fee Structure Revisions for North Carolina’s Title V Operating Permit Program

DEQ Division: Division of Air Quality

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Impact Summary: State government: Yes
Local government: Yes
Substantial impact: Yes
Private Sector: Yes

Authority: G.S. 143-215.3(a)(1), (1a), (1b), (1d); G.S. 143-215.3A

Necessity: To update the fee structure in 15A NCAC 02Q .0203, *Permit and Application Fees*, to sufficiently cover all reasonable (direct and indirect) costs required to develop and administer North Carolina’s Title V operating permit program.

I. Purpose

The purpose of this document is to provide an analysis detailing the fiscal impacts associated with the proposed amendment of 15A NCAC 02Q .0203, *Permit and Application Fees*, to cover all reasonable (direct and indirect) costs required to develop and administer the state's Title V program, as required by Section 502(b)(3) of the Clean Air Act. The proposed amendments were developed to address a projected funding shortfall in Title V fees required to adequately administer North Carolina's Title V program.

II. Background

On August 31, 2001, the United States Environmental Protection Agency (EPA) granted the North Carolina Division of Air Quality (DAQ) full approval of its Title V operating permit program pursuant to the federal implementing regulations in 40 CFR Part 70 (66 FR 45941; effective October 1, 2001). In accordance with 40 CFR §70.9, the DAQ must "require that the owners or operators of part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and shall ensure that any fee required by this section will be used solely for permit program costs." Operating permit program costs include those from the following activities as they relate to Title V sources: preparing regulations or guidance regarding the permit program, its implementation, or enforcement; reviewing and acting on permit applications; administrative costs of running the permit program, such as application tracking, compliance certifications, and data entry; implementation and enforcement of the terms of a Part 70 permit; emissions and ambient monitoring; modeling, analysis or demonstrations; preparing inventories and tracking emissions; and support to sources under the Small Business Stationary Source and Technical and Environmental Compliance Assistance Program.

In addition to federal requirements, North Carolina General Statute 143-215.3(a) authorizes the Commission to "...adopt fee schedules and collect fees..." for processing and administering permits. The fee schedules in 15A NCAC 02Q .0203 contain annual fees for tonnage and the issued permit, as well as an additional nonattainment area fee, as applicable. Tonnage is defined as the facility's combined total annual emissions of all regulated air pollutants, rounded to the nearest ton, contained in the emissions inventory that has been completed by the DAQ, without including emissions of carbon monoxide, any pollutant only regulated because it is a Class I or II substance listed pursuant to CAA Section 602, any pollutant only regulated because it is subject to CAA Section 112r, or the amount of actual emissions of each pollutant that exceeds 4,000 tons per year. 15A NCAC 02Q .0203 also applies application fees that are dependent on the facility category and application type. Historically, the DAQ's Title V funding relied primarily on annual tonnage fees, which are capped at 4,000 tons per year of any individual regulated pollutant defined in Clean Air Act Section 502(b)(3)(B)(ii), and have declined due to modern air pollution control technologies, changes in fuels, unit retirements, State initiatives, and federal air pollution control programs. However, from 2008 to 2019, the DAQ has experienced a 57% decrease in tons of emissions billed from Title V sources, and a 30% decrease in annual fees invoiced from 2009 to 2019. The DAQ projects funding shortfalls in fiscal year (FY) 2020-2021. Failure to address the Title V funding shortfalls may result in the EPA-approved State operating program without sufficient funds to operate many aspects of the program, which could eventually result in the EPA partially or fully withdrawing approval of North Carolina's Title V operating permit program pursuant to 40 CFR 70.10(b) and (c).

The DAQ's workload related to Title V sources has also evolved since the last fee change. The total number of Title V facilities in North Carolina decreased by approximately 13% from 2009 to 2019. Additionally, National Ambient Air Quality Standards (NAAQS) have been revised, requiring attainment planning and implementation work of the DAQ. The DAQ utilizes resources to fulfill its responsibilities with respect to new or amended Federal Regulations and implementation requirements, such as MACT standards for industrial boilers, utilities, and reciprocating internal combustion engines, as well as New Source Performance Standards (NSPS) for landfills, oil and gas facilities, pulp and paper mills, and air curtain incinerators (ACIs), and MACT "hammer" requirements under Clean Air Act (CAA) Section 112j, including those for MACT Subpart DDDDD and those required under the Startup, Shutdown and Malfunction (SSM) State Implementation Plan (SIP) Call. In addition, the DAQ has worked to meet increased public expectations and engagement in the permitting process, increased stack testing protocols, reviews and observations, the emergence of new compounds, and the increased presence of personal air sensors in use by the public. Additionally, the DAQ recently decentralized some Title V renewal applications to Regional Offices in order to redistribute workload, thus redistributing some of the Title V salary liability.

The Title V program is applicable to major sources, which is any facility with at least 100 tons per year (tpy) of any regulated pollutant, 25 tpy of all combined hazardous air pollutants (HAPs), or 10 tpy of any individual HAP. The Title V fees in North Carolina include a combination of annual permit tonnage and base fees, permit application fees, and an added annual permit base fee for facilities in nonattainment areas. The annual fees and permit application fees are each summarized and outlined in Table 1 below:

Annual Permit Fees

Annual permit fees for Title V facilities consist of a tonnage factor and base permit fee, as well as an additional nonattainment area fee, if applicable. The tonnage fee structure was last revised in 2008 at \$22.50 per ton with annual increases each year through 2011. The language of 15A NCAC 02Q .0203 was amended during the 2018 readoption of this Rule to incorporate the final 2011 tonnage factor of \$30.00 per ton. The Rule also allows for inflation adjustment using annual Consumer Price Index (CPI) increases in accordance with 15A NCAC 02Q .0204. Thus, the tonnage fee established for calendar year (CY) 2020 is \$34.25 per ton.

The current language of 15A NCAC 02Q .0203 specifies a base permit fee of \$6,500 for Title V facilities, with an additional fee of \$3,500 for Title V facilities in nonattainment areas, effective in CY 2011. Through annual CPI increases, the Title V base permit fees have been increased to \$7,423 for CY 2020, with an additional nonattainment base fee of \$3,998.

Permit Application Fees

At the time of the original adoption of 15A NCAC 02Q .0203, the Title V permit application fees were established as follows for CY 1994: \$7,200 for a new or significant modification application; \$700 per minor modification; \$10,900 for a new or modified PSD or nonattainment major source facility application; \$21,200 for a new or modified facility subject to both PSD and nonattainment; and \$50 for an ownership change. These fees have been increased through the annual inflation adjustment increases and rounding specifications in the rule. The fees are charged as follows for CY 2020: \$10,177 for a new Title V facility; \$988 for a construction and operation permit, minor modification, or significant modification;

\$15,406 for a new or modified PSD or Nonattainment application; \$29,965 for a new or modified PSD and Nonattainment application; and \$60 for an ownership change. General ACI Title V facilities are subject to 10% of the otherwise applicable fee.

One category of facilities, air curtain incinerators (ACIs), are required under 40 CFR Part 60 to obtain a Title V permit regardless of actual or potential emissions. The DAQ issues these Title V permits under General Permits. Session Law 2018-114 established separate annual and application fees for ACIs with a General Title V permit, equal to 10% of the otherwise applicable fee.

Table 1. Summary of Current Title V Annual and Application Fees

Title V Annual Fees		
Fee Type	Current rule (applicable for CY 2011)	Current fees (applicable for CY 2020) ^b
Base	\$6,500/facility	\$7,423/facility
Tonnage	\$30.00/ton	\$34.25/ton
General ACI ^a	N/A ^d	10% of the otherwise applicable fee
Title V Application Fees		
Fee Type	Current rule (applicable for CY 1994)	Current fees (applicable for CY 2020) ^b
New Facility	\$7,200	\$10,177
Significant Modification 1-step ^c	\$7,200	\$988
Significant Modification 2-step ^c	\$7,200	\$988 per step
Minor Modification	\$700	\$988
PSD or Nonattainment	\$10,900	\$15,406
PSD and Nonattainment	\$21,200	\$29,965
Ownership change	\$50	\$60
General Title V ACI ^a	N/A ^d	10% of the otherwise applicable fee

^a Applies to new air curtain incinerators only.

^b These fees reflect the Consumer Price Index increases and are effective January 1, 2020.

^c Although the current rule language in 15A NCAC 02Q .0203 allows the DAQ to charge an application fee for significant modifications the same as that for new Title V facilities, the DAQ has historically charged a consistent fee for minor and significant modifications.

^d While the fees for General Title V ACI permits are not currently listed in 15A NCAC 02Q .0203, the impact of these fees was included in the fiscal note prepared for the amendment of 15A NCAC 02D .1904, Air Curtain Burners, during the Group 4 Air Quality Rules readoption process.

III. Reason for Rule Change

The fee revisions outlined in this fiscal note are proposed to address a projected funding shortfall for fiscal years 2020-2021 onward and account for a salary administration plan as described in this Section. Largely due to decreasing emissions, the total fees collected from Title V facilities, including both annual and application fees, decreased approximately 27% from FY 2009-2010 to FY 2018-2019.

Projected Funding Gap

Based on a review of its current Title V program, the DAQ determined a base funding amount of \$8,077,710 is needed to implement the program, with \$7,852,710 needed for staffing and \$225,000 for equipment and operations. This funding amount is based on a June 2019 analysis of the Title V program funding program by the DAQ Director. This analysis was based on DAQ branch supervisor information from Technical Services, Planning, Ambient Monitoring, and Administration on the amount of time and resources that are used to administer the Title V program. A summary of this analysis is shown on Slide 16 of the presentation¹ provided in Appendix B. Comparison with the FY 2019-2020 receipts of \$6,308,702 results in a projected funding gap of \$1,769,008. The DAQ developed a funding “model” that was provided to and used by the stakeholder group to explore the effects of various fee changes on Title V revenues in order to close the projected funding gap.

Salary Administration Plan

A significant portion of the revenues required to implement the State’s Title V program is attributable to staff salaries. As shown on the graph on Slide 20 of the presentation provided in Appendix B, the majority of staff salaries are below market value given the level of experience and job classification using the market salary index. The market salary index is a ratio that compares a salary, in this case the salaries of DAQ employees, to the market average for that position by years of experience. The DAQ identified the position class with the most turnover in DAQ is the Engineering class. In addition to turnover, the DAQ has experienced issues with the recruitment of engineers. These inequities hinder the DAQ’s ability to create and maintain competitive salaries to retain talent and effectively recruit new employees. Therefore, the DAQ developed a salary administration plan with the goals of establishing a single objective and transparent salary schedule for both employee and employer that reduces current or future inequities in comparable occupational groups, removes pay bias against employees based on differences such as age, gender, race and ethnicity, and provides predictability for the employee and employer. A table of the salary schedule by years of experience is shown on Slide 19 of the presentation provided in Appendix B. A graphical representation of the salary schedule and the current DAQ salaries is provided on Slide 20 of the presentation provide in Appendix B.

As shown on Slide 20, the market salary index for an entry level employee, an employee with 0-5 years of experience, ranges from 0.70 to 0.97, with the average around 0.80. The proposed salary administration plan would increase the average of the market salary index to 0.90. In contrast, the market salary index for an experienced employee, an employee with 15-20 years of experience, ranges from 0.77 to 1.08, with the average about 0.90. For this group, the proposed salary administration plan would increase the market salary index to 0.98 for employees with 15 years of experience, 1.00 for employees with 16 to 18 years of experience, and 1.03 for employees with 19 to 20 years of experience. The DAQ estimates that an additional \$1,320,000 is needed to implement this proposed salary administration plan. Of the total funds needed for implementation, 44 percent or \$580,800, would come from the Title V program. In response to feedback from the stakeholder group, the DAQ agreed to phase in the required Title V funds for the salary administration program over 3 years, and conduct an Accountability Report in the next 2 years to include a new workload analysis, and staffing and funding needs. It was also agreed that the DAQ would use cash flow management to address Legislative Increases.

¹ This presentation was presented before the Air Quality Committee (AQC) on July 8, 2020 and the Environmental Management Commission (EMC) on July 9, 2020.

The base funding requirement of \$8,077,710 combined with salary administration plan requirement of \$580,800 results in a total Title V program funding requirement of \$8,658,510 in FY20-21. The \$580,800 of additional salary funding equates to approximately 7% of the \$8,077,710 base funding requirement. In order to phase in the Title V funds needed for the salary administration plan, the DAQ incorporated a 2.5% planning adjuster to the base funding requirement in the first year, a 5% planning adjuster in the second year, and 7% planning adjuster every year thereafter.

IV. Proposed Rule Changes

Based on a series of meetings with the stakeholder group, and to address the projected funding shortfalls and administer the salary administration plan, the DAQ is proposing to amend the Title V fees in 15A NCAC 02Q .0203 such that Title V revenues cover the costs of implementing the program and the fees more closely reflect the portion of DAQ resources required for implementation at each facility. The DAQ is proposing to revise both the annual permit fees and permit application fees in 15A NCAC 02Q .0203 as described below. These fees are anticipated to become effective beginning **March 1, 2021.**

Stakeholder Process

In order to receive feedback on the various options for fee revisions, the DAQ formed a stakeholder group and held a series of stakeholder meetings in May and June of 2020. The stakeholder group consisted of representatives from the Title V regulated community, environmental consulting and legal sectors, the North Carolina Manufacturer's Association, and two nongovernmental environmental groups. The stakeholder group established goals and the DAQ provided a funding "model" for the group to use and adjust as they explored various options, while also considering all options brought forward by the group. Two of the goals established for the group were to keep the Title V fee structure simple and revise Title V fees as infrequently as possible. Some key tenets of the stakeholder group's proposal were to rely less on the tonnage fee moving forward, and link fees more to workload and complexity. The stakeholder group unanimously agreed on the proposed fee changes described in this Section.

Annual Fees

The DAQ is proposing to increase the Title V annual tonnage fee from \$34.30 per ton, the fee for CY 2020, to \$40.00 per ton. The base annual fee for Title V facilities is proposed to increase from the 2020 fee of \$7,423 to \$10,000. In addition to the base annual fee, the DAQ is proposing to add a complexity fee, based on the number of applicable federal programs. Moderately complex facilities, defined as those facilities subject to at least three and no more than six federal programs, will be charged an additional base fee of \$2,500. Highly complex facilities, defined as those facilities subject to seven or more federal programs, will be charged an additional base fee of \$7,500. Examples of federal programs counted under this complexity fee would be New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and NESHAPs for Source Categories, or Maximum Achievable Control Technology (MACT) Standards, under 40 CFR Parts 60, 61 and 63, the Prevention of Significant Deterioration (PSD) program, and the Risk Management Program under CAA Section 112(r). Table 2 below compares the 2011 fees as written in the rule, the currently applicable 2020 fees, and the proposed 2021 fees.

Table 2. Comparison of Current and Proposed Title V Annual Base and Tonnage Fees

Type of Title V Fee	CY 2011 Fees (Current Rule)	CY 2020 Fees (Current Rule + CPI adjustments)	Proposed 2021 Fee ^a
Tonnage Factor (\$/ton)	\$30.00	\$34.25	\$40.00
Basic Permit Fee	\$6,500	\$7,423	\$10,000
Nonattainment Area Added Fee	\$3,500	\$3,998	no change
General TV ACI ^b	N/A ^c	10% of otherwise applicable fee	10% of otherwise applicable fee
Added medium complex facility fee (3-6 federal programs)	None	None	\$2,500
Added highly complex facility fee (≥7 federal programs)	None	None	\$7,500

^a Proposed 2021 Fees which are indicated as “no change” will still include CPI increase adjustments as currently allowed by the Rule. No changes are proposed to fees with this indicator outside of the CPI increase adjustment. The DAQ has estimated that these fees will become effective in March 2021.

^b Applies to new ACIs only.

^c The current rule language in 15A NCAC 02Q .0203 does not include a fee for General Title V ACI permits. As discussed in Section II, Session Law 2018-114 authorized a fee for these sources equal to 10% of the otherwise applicable fee, which will be incorporated into the rule language during this rulemaking.

Application Fees

The DAQ is also proposing to increase the Title V application fees for minor and significant permit modifications. Significant modifications are submitted using either a “1-step” process pursuant to 15A NCAC 02Q .0501(b)(1) or (c)(1), or a “2-step” process pursuant to 15A NCAC 02Q .0501(b)(2) or (c)(2). The current language of 15A NCAC 02Q .0302 allows the DAQ to charge significant modification applicants the same fee as that for new Title V facilities, which is established at \$10,177 for calendar year 2020. However, the DAQ is currently charging a permit fee of \$988 for both minor and significant modifications, unless the 2-step application option under 15A NCAC 02D .0501(b)(2) or (c)(2) is utilized to authorize a significant modification, in which case the fee of \$988 is charged with each step. Under the proposed rule changes, minor modification applications will require a fee of \$3,000 and all significant modifications will require a fee of \$7,000, which will cover both steps of a 2-step application. The remaining fees for new Title V facilities, Prevention of Significant Deterioration (PSD), Nonattainment, and ownership change applications remain unchanged, with the exception of the annual CPI increase already allowed by the rule.

Table 3. Comparison of Current and Proposed Title V Application Fees

Title V Facility Category and Type of Application	CY 2011 Fees (Current Rule)	CY 2020 Fees (Current Rule + CPI adjustments)	Proposed 2021 Fee ^a
New Facility	\$7,200	\$10,177	no change
Significant Modification 1-step	\$7,200	\$988	\$7,000
Significant Modification 2-step	\$7,200	\$1976 ^b	\$7,000 ^c
Minor Modification	\$700	\$988	\$3,000
PSD or NSR/NAA	\$10,900	\$15,406	no change
PSD and NSR/NAA	\$21,200	\$29,965	no change
Ownership change	\$50	\$60	no change
General Title V ACI ^d	N/A ^e	10% of otherwise applicable fee	no change

^a Proposed 2021 Fees which are indicated as “no change” will still include CPI increase adjustments currently allowed by the Rule. No changes are proposed to fees with this indicator outside of the CPI increase adjustment. The DAQ has estimated that these fees will become effective in March 2021.

^b For CY 2020, a 2-step permit application under 15A NCAC 02Q .0501(b)(2) or (c)(2) requires a \$988 fee at each step, for a total of \$1976

^c The proposed fee of \$7,000 will cover both steps of a 2-step permit application under 15A NCAC 02Q .0501(b)(2) or (c)(2) and will be charged with the first application.

^d Applies to new ACIs only.

^e The current rule language in 15A NCAC 02Q .0203 does not include a fee for General Title V ACI permits. As discussed in Section II, Session Law 2018-114 authorized a fee for these sources equal to 10% of the otherwise applicable fee, which will be incorporated into the rule language during this rulemaking.

V. Estimating the Fiscal Impacts

As described above, Title V facilities pay application fees and an annual fee, which currently consists of a base fee and a tonnage fee. Application fees vary based on the type of application and facility category. As outlined in Section IV, the only application fees with proposed revisions are those for minor and significant modifications. While the majority of Title V facilities in North Carolina are privately-owned, the DAQ identified 22 facilities owned by local governments, including counties and municipalities, 2 facilities owned by state government entities, and 4 facilities owned by federal government entities. The sections below provide the costs associated with these fee revisions.

Private Entities:

Annual base fee

The base annual fee charged to Title V facilities is a flat fee for each facility. A facility is categorized as a Title V facility based on its level of emissions. Therefore, the number of Title V facilities in North Carolina can change as existing facilities increase and decrease emissions, or as new facilities are constructed. From 2009 to 2019, the total number of Title V facilities invoiced, not including ACIs, has

decreased from 321 facilities to 279 facilities². The revenue analysis performed by the DAQ assumed the number of Title V facilities remains at 279. Recent analysis shows 277 active Title V permits, not including ACI units, and 10 Title V ACI facilities. The DAQ also anticipates issuance of new permits for 1 new Title V facility and 1 new Title V ACI facility in the near future. For the purposes of estimating base fees from ACI units, the DAQ assumed that the current 10 ACI facilities will be billed in 2020. For the purposes of projecting costs and revenues under the new fees in 2021, the DAQ assumed that the pending ACI Title V permit application will be issued in 2020 and therefore, 11 ACI facilities will be billed in 2021. A significant contributor to the decrease in emissions at Title V facilities is the implementation of federal programs and regulations such as NSPS, NESHAP and MACT standards and emission guidelines, the majority of which have reached full implementation and are not expected to result in further substantial emission decreases. Upon review of the Title V facilities in North Carolina, the DAQ does not expect a large change in the total number of Title V facilities statewide.

For this analysis of the annual base fee, the DAQ removed the 28 non-privately owned facilities from the total of 279 Title V facilities. The costs for these non-privately owned facilities will be addressed in separate analyses in this Section. Therefore, the fiscal impacts associated with the increased base fee were estimated assuming the number of privately owned Title V facilities, not including ACI units, remains constant at 251 facilities. The increase in base fee from \$7,423 to \$10,000 per facility for 251 facilities, and increase in number of ACI Title V facilities, results in additional annual base fee costs of \$646,827 for privately owned Title V facilities, and \$3,577 to ACI Title V facilities.

Annual tonnage fee

For most facilities, the tonnage fees collected in a given year are based on the emissions reported two years prior. For the 2020 base model, the DAQ determined that 122,940 tons of emissions are expected to be billed in 2020, based on an IBEAM report of 2018 reported emissions, of which approximately 2,311 tons were from non-privately owned facilities. Based on an analysis of emission projections for five contributors to Title V emissions, the DAQ projects 114,018 tons of emissions to be billed in 2021³, with 111,707 tons coming from privately owned facilities. The decrease in emissions combined with increase in tonnage factor from \$34.30 per ton to \$40.00 per ton results in an additional \$330,703 of annual tonnage costs to privately owned Title V facilities.

Complexity add-in base fee

As described in Section IV, the DAQ is proposing an additional base fee for moderately complex and highly complex facilities. A moderately complex facility will be defined as one subject to at least three but no more than six federal programs. A highly complex facility will be defined as one subject to seven or greater federal programs. Based on a review of the current Title V facilities, the DAQ expects to have 113 moderately complex facilities, and 30 highly complex facilities. Using these projections with the new proposed complexity fees results in an additional \$507,500 of annual base fees.

² Based on a report of 2019 Title V invoices from the North Carolina's Internet-Based Enterprise Application Management (IBEAM) system, which showed 284 total Title V facilities billed in 2019, 5 of which were ACI units.

³ Projected emission decreases for 2019-2023 (to reflect 2021-2025 billed emissions) were provided by Duke Energy. The DAQ estimated future emission levels at CPI USA North Carolina (Southport and Roxboro plants), and PCS Phosphate Company, and Blue Ridge Paper Products. Overall emissions from the remaining Title V sources were assumed to remain constant from 2018 reported levels.

Application Fees

As described in Section IV, the DAQ is proposing increases in the minor and significant modification Title V application fees. The costs associated with application fees were determined by adding the costs due to modification application fee changes to the costs associated with CPI increase adjustments to all Title V applications.

The costs due to the increases in modification application fees were broken down into minor and significant applications. The DAQ currently charges \$988 for both types of modifications, but charges \$988 for each step of a 2-step significant modification. The DAQ is proposing to revise the minor modification fee to \$3,000 and the significant modification fee to \$7,000. In CYs 2017 through 2019, the DAQ received an annual average of 45 minor modification applications, 15 “1-step” significant modification applications, and 29 individual applications submitted as part of “2-step” significant applications⁴, from privately owned facilities. With the proposed revisions, the significant modification fee of \$7,000 will only be charged once with the first application submittal. Therefore, the 3-year annual average of 29 “2-step” significant modification applications was divided by two in order to estimate the average number of 2-step application “sets” received annually. In order to estimate the increased costs, these 3-year average values were used with the proposed revised minor and significant modification fees of \$3,000 and \$7,000, respectively, to determine the projected revenues from minor and significant modifications under the new fees. The DAQ then determined the projected revenues from this volume of applications using an application fee of \$1,003, which reflects the current fee of \$988 with 1.54% CPI increase,⁵ and subtracted this value from the projected modification application revenues under the proposed fee schedule.

Like the annual fees, the application fee structure for General ACI units will remain at 10% of the otherwise applicable fee. Since the minor and major modification fees are increased, the modification application fees for ACI units would also increase. However, a review of the applications received from 2017 through 2019 indicated that ACI facilities only submitted greenfield applications for initial permitting of the facility. The DAQ does not expect to receive a substantial volume of applications for modifications of ACI units, if any. Therefore, the DAQ has not estimated costs from General ACI Title V modification applications.

The projected 2021 revenues from Title V applications were based on the average annual revenues from all Title V applications from privately owned facilities received from fiscal years 2014-2015 through

⁴ Permit application counts and revenues are based on IBEAM reports generated for each calendar year.

⁵ The CPI increase of 1.54% is the 5-year average annual IMF Inflation Forecast CPI values for 2015 through 2019 obtained from <https://knoema.com/kyawad/us-inflation-forecast-2020-2021-and-long-term-to-2060-data-and-charts>.

2018-2019⁶, adjusted using the assumed CPI of 1.9%⁷ to determine projected 2020 revenues for the base model, and adjusted again using a CPI factor of 1.54%. The projected 2020 base model revenues were subtracted from the projected 2021 revenues to determine the cost of all Title V applications due to CPI increases.

The costs due to increased modification fees were added to the costs from CPI adjustments to all Title V application fees to determine the total costs to privately-owned facilities due to the proposed Title V application fee changes, \$255,520.

The total increased costs to privately-owned Title V facilities are estimated to be approximately \$1.74 million, as summarized in Table 4 below:

Table 4. Increased Costs to Private Industry Facilities from the 2020 Baseline

Title V Fee Type	Year 1 Cost ^a
Annual Fees	
Base Permit Fee	\$646,827
Tonnage Fee ^b	\$330,703
Complexity Add-in	\$507,500
General Title V ACIs Base Fee	\$3,577
Annual Subtotal	\$1,488,607
Application Fees	
All Title V Applications	\$255,528
Total Cost	
	\$1,744,136

^a The costs reflect the projected 2021 revenues compared to projected 2020 base model revenues, which reflect an assumed 251 privately-owned facilities, CY 2018 reported emissions of 120,629 tons, and the 5-year annual average historical application revenues from fiscal years 2014-2015 through 2018-2019 with a CPI of 1.9% applied. The projected 2020 base model results in a projected revenue of \$6,404,700 and a resulting projected funding gap of \$1,677,010 for all Title V facilities, including both privately-owned and government-owned facilities. These values differ from the actual receipts from fiscal year 2019-2020 for all Title V facilities, which total \$6,308,702 and result in a funding gap of \$1,769,008.

⁶ Based on IBEAM reports for Title V application revenues for each fiscal year from 2014-2015 through 2018-2019, and includes greenfield applications, greenfield ACI general permits, PSD applications, minor and significant modifications, ownership changes, and construction notices. To determine the revenues from privately-owned facilities, the DAQ determined the annual average revenues received during this time period from local government-owned, state-owned, and federal-owned entities, which were then subtracted from the annual average application revenues received from all Title V facilities.

⁷ 1.9% represents the CPI adjustment that was applied to 2019 fees to determine the current fees for calendar year 2020.

^b The emissions expected to be billed in 2020 are based on an IBEAM report of 2018 reported emissions inventory. 2018 reported emissions from facilities owned by local governments, state government, or federal government entities were subtracted and are addressed separately in this fiscal note.

COVID-19 Impacts

Based on evaluations of Title V facility types in the state and discussions with some of the current Title V facilities, the DAQ does not currently anticipate significant changes in these facilities' operations as a result of the COVID-19 pandemic. Some of the Title V facilities which contribute largely to emissions in North Carolina include electric generating units, paper mills, steel mills, and chemical plants, whose production levels have remained relatively unaffected during the pandemic. As a result of minimal impacts on Title V facilities' operations and emissions, the DAQ does not anticipate significant changes in workload or workforce requirements to implement the Title V program in North Carolina in response to COVID-19.

State Government Entities:

Costs to State-owned Facilities

The DAQ identified two public universities in the state that are Title V sources and will incur costs as a result of these fee changes. The DAQ has assumed that the number of state-owned Title V sources will remain at two for the time period analyzed. Tonnage costs from these facilities were calculated based on 720 tons per year, which reflects 2018-reported emissions, invoiced in 2020. Emissions from these facilities were assumed to remain constant over the period analyzed. In order to estimate costs due to the complexity fees, the DAQ determined that both of these facilities are moderately complex.

Application fee costs consist of the costs due to increased modification application fees, and costs associated with CPI increases from all applications. The application fee baseline was based on the annual average revenues received from these facilities from July 1, 2014 through June 30, 2019, to represent five fiscal years. The total application fee revenues received were averaged over this 5-year period to determine an annual average of \$4,336. The annual average cost was then adjusted using a CPI factor of 1.9% to estimate 2020 application fee revenues for the base model and was then adjusted again using a CPI factor of 1.54% to estimate 2021 application revenues. These revenues represent those from only CPI adjustments, without the proposed fee revisions. The costs due to the proposed fee revisions were calculated using an assumed volume received of each type of modification application, and applying the difference between the proposed fees, \$3000 for minor modifications and \$7000 for significant modifications, to \$1,003, the projected 2021 application fee due to only a CPI adjustment of 1.54%. The DAQ determined that these facilities submitted, on average, 1 minor modification application per year and an average of less than one 2-step significant modification application annually from 2017 through 2019. These facilities did not submit any 1-step significant modification applications during this three-year period. For calculating application costs from these facilities, the DAQ assumed that the state-owned facilities would submit one minor modification application and no significant modification applications per year. The table below summarizes the costs to these two state-owned facilities.

Table 5. Summary of Costs for State-Owned Facilities from the 2020 Baseline

Title V Fee Type	Year 1 Cost ^a
Annual Fees	
Base Permit Fee	\$5,154
Tonnage Fee ^b	\$4,107
Complexity Add-in	\$5,000
Annual Subtotal	\$14,261
Application Fees	
All Title V Applications	\$2,065
Total Cost	\$16,326

^a The costs reflect the projected 2021 revenues compared to projected 2020 base model revenues, which are based on 2 state-owned facilities with CY 2018 reported emissions of 720 tons, and the 5-year annual average historical application revenues from these facilities during fiscal years 2014-2015 through 2018-2019 with a CPI of 1.9% applied. The 2020 base model resulted in projected revenues of \$6,400,700 and a projected funding gap of \$1,677,010 for all Title V facilities, including both privately-owned and government-owned facilities. The actual receipts from fiscal year 2019-2020 for all Title V facilities total \$6,308,702 and result in a funding gap of \$1,769,008.

^b The emissions expected to be billed in 2020 are based on an IBEAM report of 2018 reported emissions inventory for the two state-owned Title V facilities.

Local Government Entities:

The DAQ identified 22 Title V permits owned by local government entities, including landfills, a wastewater treatment facility, power agencies, and a public works commission. The DAQ identified that approximately 436 tons of emissions were reported from 21 local government-owned facilities in 2018, which reflects the emissions billed in 2020. One additional facility obtained a Title V permit in 2019. The DAQ assumed the number of local government-owned facilities will remain constant at 22, and emissions from these facilities will remain constant from the 2018-reported emissions over the time period analyzed. It was determined that 11 of these facilities are moderately complex and none are highly complex.

Application fee costs consist of the costs due to increased modification application fees, and additional costs associated with CPI increases from all applications. The costs due to increased modification application fees assume these facilities submit a total of 2 minor modification applications, one 1-step significant modification application, and one 2-step significant modification application annually. These quantities reflect the annual average number of applications received from these facilities from 2017 through 2019. The costs due to CPI increases were based on the annual average revenues received from local government-owned Title V applications from July 1, 2014 through June 30, 2019, \$7451, with a 1.9% CPI adjustment in 2020 and an additional 1.54% CPI adjustment in 2021. The table below summarizes the costs to local government-owned facilities due to the proposed fee revisions.

Table 6. Summary of Title V Costs for Local Governments

Title V Fee Type	Year 1 Cost ^a
Annual Fees	
Base Permit Fee	\$56,694
Tonnage Fee ^b	\$2,482
Complexity Add-in	\$27,500
Annual Subtotal	\$86,676
Application Fees	
All Title V Applications	\$12,604
Total Cost	\$99,281

^a The costs reflect the projected 2021 revenues compared to projected 2020 base model revenues, which are based on an assumed 22 state-owned facilities, CY 2018 reported emissions of 436 tons, and the 5-year annual average historical application revenues from local government-owned facilities during fiscal years 2014-2015 through 2018-2019 with a CPI of 1.9% applied. The 2020 base model resulted in a projected revenue of \$6,404,700 and a resulting projected funding gap of \$1,677,010 for all Title V facilities, including both privately-owned and government-owned facilities. These values differ from the actual receipts from fiscal year 2019-2020 for all Title V facilities, which total \$6,308,702 and result in a funding gap of \$1,769,008.

^b The emissions expected to be billed in 2020 are based on an IBEAM report of 2018 reported emissions inventory for 21 local government-owned Title V facilities. One additional facility owned by local-government received a Title V permit in 2019.

Federal Facilities

The DAQ identified four Title V facilities owned by the federal government. Since these are not privately-owned facilities, the costs incurred by these facilities have been analyzed separately. Tonnage costs are based on 1,155 tons of emissions billed per year, which reflects the 2018-reported emissions from these facilities. The DAQ assumed that the number of federally-owned Title V facilities and the emissions from these facilities will remain constant over the time period analyzed. Review of these facilities indicates that two are considered moderately complex and two are considered highly complex.

Application fee costs consist of the costs due to increased modification application fees, and additional costs associated with CPI increases from all applications. From 2017 through 2019, the DAQ received a total of one minor modification application, two 1-step significant modification applications, and two 2-step significant modification applications from these four facilities. The estimated costs incurred by these facilities due to the application fee revisions are based on the assumption that the DAQ will receive one 1-step significant modification application, one 2-step modification application, and no minor modification applications from these facilities per year. The 2020 and 2021 application baselines were estimated using the same methods used for local government and state government facility applications. These facilities paid an annual average of \$2773 in application fees over the five year period from July 1, 2014 through June 30, 2019. In order to estimate the costs associated with these applications due to inflation adjustments, the DAQ applied a 1.9% CPI adjustment in 2020 and an additional 1.54% CPI adjustment in 2021. The costs incurred to federal facilities are summarized in the table below.

Table 7. Summary of Costs for Federal Facilities

Title V Fee Type	Cost ^a
Annual Fees	
Base Permit Fee	\$10,308
Tonnage Fee ^b	\$6,585
Complexity Add-in	\$20,000
Annual Subtotal	\$36,893
Application Fees	
All Title V Applications	\$8,537
Total Cost	\$45,430

^a The costs reflect the projected 2021 revenues compared to projected 2020 base model revenues. The 2020 model revenues are based on 4 federal government-owned facilities with CY 2018 reported emissions of 1,155 tons, and the 5-year annual average historical application revenues from these facilities during fiscal years 2014-2015 through 2018-2019 with a CPI of 1.9% applied. The projected 2020 base model result in a projected revenue of \$6,404,700 and a resulting projected funding gap of \$1,677,010 for all Title V facilities, including both privately-owned and government-owned facilities. These values differ from the actual receipts from fiscal year 2019-2020 for all Title V facilities, which total \$6,308,702 and result in a funding gap of \$1,769,008.

^b The emissions expected to be billed in 2020 are based on an IBEAM report of 2018 reported emissions inventory for the federal government-owned Title V facilities.

Impact on North Carolina DAQ

The purpose of these fee revisions is to allow the DAQ to fulfill its Title V funding obligations under Section 502 of the CAA and administer a salary administration plan in order to continue to provide the same level of customer service to regulated entities and the public. The DAQ currently utilizes 92.5 full time equivalent (FTE) positions to implement the Title V program in North Carolina. For the reasons described in this Section, the DAQ does not anticipate a substantial change in the total number of Title V facilities in the state, or the overall complexity of existing Title V sources with respect to new or changing federal regulations. Therefore, it is not expected that an increase in FTEs will be required to continue implementation of the Title V program. The goal of the salary administration program is to create and maintain a strong workforce, retain talent, and effectively recruit new employees through competitive salaries so that the DAQ can maintain the level of customer service currently being provided.

Failure to address the Title V shortfalls may result in both short- and long-term consequences for the DAQ, regulated entities and citizens of North Carolina. Insufficient funds to pay current staff salaries could cause DAQ staff cutbacks, potentially leading to decreased quality of service and insufficient workforce to operate many aspects of the program. For the regulated community, decreased service could include longer permit processing times or the potential for permits that fail to withstand EPA review. Reduced frequency or quality of inspections and permit reviews could lead to diminished air quality for

the citizens of North Carolina. For the DAQ, incomplete implementation of the Title V program could eventually result in the EPA partially or fully withdrawing approval of North Carolina's Title V operating permit program pursuant to 40 CFR 70.10(b) and (c), which could result in the loss of North Carolina's Title V revenues and the DAQ's 92.4 Title V FTEs. Title V receipts indicate revenues of \$6,308,702 in fiscal year 2019-2020, and review of the DAQ's current Title V staffing requirements indicates a potential loss of \$7,852,710 in salary payments to the 92.4 FTEs. Additional potential losses include the \$580,800 of Title V funds required to implement the DAQ's salary administration program. Without the ability to create and maintain competitive salaries, the DAQ risks losing talent and the ability to effectively recruit new employees, which are necessary to maintaining the current level of service provided to the regulated community and citizens of the state. Additional negative outcomes potentially avoided through implementation of this rule change include diminished public health and welfare from incomplete implementation of the Title V permitting program.

VI. Public Health and Environmental Impacts

The fee revisions involved in this rulemaking are proposed to avoid a projected funding shortfall for North Carolina's Title V air permitting program and implement the salary administration program described in Section II. There are no expected changes to the emission control requirements at Title V facilities or number of Title V facilities as a result of this rule change compared to the current status.

However, without the fee adjustment, the DAQ would not fulfill its obligations under CAA Section 502(b)(3) to collect sufficient revenues to fund its Title V program. Insufficient revenues could negatively impact the quality of the DAQ's Title V operating permit program. Such negative impacts could result in loss of staff, which could lead to longer permit processing timeframes and diminished permit quality. Under 40 CFR §70.10(c), circumstances, in whole or part, that could lead to EPA withdrawal of program approval include the State's failure to collect fees in accordance with 40 CFR §70.9, repeated issuance of permits that do not conform to the requirements of Part 70, failure to act in a timely way on permit applications, violations of permits or other program requirements, and failure to inspect and monitor activities. In the event that the EPA withdraws approval of North Carolina's Title V operating permit program, the EPA may promulgate, administer, or enforce a Title V Federal program within 2 years. The DAQ's ability to provide quality Title V permits that can withstand EPA scrutiny is important to both the regulated community and citizens of the state. Therefore, the DAQ expects this rule change to benefit the regulated entities and the public by maintaining the current implementation of the Title V program and its associated public health and environmental benefits.

VII. Cost and Benefit Summary

The DAQ developed a cost and benefit analysis of the proposed changes to 15A NCAC 02Q .0203. The analysis is based on the proposed fee changes described in Section IV of this fiscal note and an assumed annual CPI adjustment of 1.54% for each fee type, beginning in 2021. The fiscal analysis was performed over a 5-year period. This was the longest time period that the DAQ and stakeholder group determined could be reliably estimated. As discussed in this fiscal note, emissions billed in a given year generally correspond to those reported two years prior. Therefore, these projections required predictions of emissions through year 3. Due to the various factors affecting emissions, it is difficult to reliably predict total statewide Title V emissions beyond this time period. The DAQ has assumed other inputs to the

model, such as the total number and complexity of Title V facilities (total number of applicable federal regulations), and volume and breakdown of types of Title V applications will remain consistent with that used to generate the projected 2020 base funding model.

Title V Fees and Inflation Adjustments

Table 8 shows the proposed changes to the Title V fees. The table includes the fees currently applicable in CY 2020, the proposed fee changes that will become effective in Year 1, and those proposed fees adjusted for inflation annually through Year 5 using a CPI factor of 1.54%.

Table 8. Proposed Fee Changes

Title V Fee Type	2020	Year 1	Year 2	Year 3	Year 4	Year 5
Annual Fees						
Base Permit Fee	\$7,423	\$10,000	\$10,154	\$10,310	\$10,469	\$10,630
Tonnage Fee	\$34.30	\$40.00	\$40.62	\$41.24	\$41.88	\$42.52
General Title V ACI Base Fee	\$742.30	\$1,000.00	\$1,015.40	\$1,031.04	\$1,046.92	\$1,063.04
Complexity Add-in						
Moderately Complex	\$0	\$2,500	\$2,539	\$2,578	\$2,617	\$2,658
Highly Complex	\$0	\$7,500	\$7,616	\$7,733	\$7,852	\$7,973
Application Fees						
Minor Modification Fee	\$988	\$3,000	\$3,046	\$3,093	\$3,141	\$3,189
Significant Modification Fee 1-step	\$988	\$7,000	\$7,108	\$7,217	\$7,328	\$7,441
Significant Modification Fee -2-step	\$1,976	\$7,000	\$7,108	\$7,217	\$7,328	\$7,441

Revenue Surplus and Deficits

In order to determine the sustainability of the funding model going forward, the DAQ projected the revenues expected through 2025 with projected changes in tonnage and annual inflation adjustments. As described previously, the DAQ expects Title V-related workload to remain constant through this time period and has therefore projected the same base funding of \$8,077,710 required through 2025 to continue implementation of the program. As described in Section III, the stakeholder group agreed to phase in the Title V funds needed for the salary administration program. The DAQ determined that \$580,800 of Title V funds would be required to fully implement the plan, which corresponds to approximately 7% of the base funding needed for the Title V program. The phased approach incorporates a 2.5% planning adjuster in the first year to account for the salary administration plan, which is then increased to 5% in the second year and the full 7% beginning in Year 3. Thus, due to the salary administration plan phase-in, the total Title V funds required increases during the first three years, and then projected to remain constant for the rest of the five-year period.

As shown in the Table 9 below, the funding model projects a surplus of \$150,891 in Year 1. With annual inflation adjustments and a slight increase in billable emissions in the second year, a larger surplus of

\$162,935 is projected, after which declining billable emissions override annual inflation adjustments and yield funding deficits in Years 3 through 5.

Table 9. Total Projected Revenues

Title V Fee Type	Fiscal Year 2019-2020	Year 1	Year 2	Year 3	Year 4	Year 5
Annual Fees						
Base Permit Fees		\$2,790,000	\$2,832,966	\$2,876,594	\$2,920,893	\$2,965,875
Projected Tonnage ^a		114,018	116,090	112,780	106,736	100,906
Tonnage Fees		\$4,560,720	\$4,715,111	\$4,651,215	\$4,469,741	\$4,290,675
General Title V ACI Base Fees		\$11,000	\$11,169	\$11,341	\$11,516	\$11,693
Annual Fees Subtotal	\$6,170,611	\$7,361,720	\$7,559,247	\$7,539,150	\$7,402,151	\$7,268,243
Complexity Add-in						
Moderately Complex	\$0	\$320,000	\$324,928	\$329,932	\$335,013	\$340,172
Highly Complex	\$0	\$240,000	\$243,696	\$247,449	\$251,260	\$255,129
Total Complexity Fees Subtotal	\$0	\$560,000	\$568,624	\$577,381	\$586,272	\$595,301
Application Fees						
Minor Modification Fee Increase	\$0	\$95,846	\$97,322	\$98,820	\$100,342	\$101,888
Significant Modification Fee Increase	\$0	\$179,346	\$182,108	\$184,912	\$187,760	\$190,651
Application Baseline	\$138,091	\$233,633	\$237,230	\$240,884	\$244,593	\$248,360
Application Subtotal	\$138,091	\$508,824	\$516,660	\$524,616	\$532,695	\$540,899
Total Revenues ^b	\$6,308,702	\$8,430,544	\$8,644,531	\$8,641,147	\$8,521,119	\$8,404,443
Projected Base Funding Needed	\$8,077,710	\$8,077,710	\$8,077,710	\$8,077,710	\$8,077,710	\$8,077,710
Adjuster for Planning	0.0%	2.5%	5.0%	7.0%	7.0%	7.0%
Adjusted Funding Needed	\$8,077,710	\$8,279,653	\$8,481,595	\$8,643,150	\$8,643,150	\$8,643,150
Surplus	-\$1,769,008	\$150,891	\$162,935	-\$2,002	-\$122,031	-\$238,706

^a Tonnage values to be billed in 2021-2025 are estimations based on projected emissions for five significant contributors to Title V emission totals which are projected to have substantial emission changes, Duke Energy, Blue Ridge Paper, CPI USA North Carolina (Southport and Roxboro plants), and PCS Phosphate Company. Overall emissions from the remaining Title V sources were assumed to remain constant from 2018 reported levels.

^b Since this fiscal note is being prepared prior to the end of calendar year 2020, this table contains the revenues from fiscal year 2019-2020. The revenues for Years 1 through 5 reflect projections based on assumed number of facilities, emission projections, and averages of historical application revenues and volumes received.

To manage projected funding shortfalls, both for fiscal year 2020-2021 and for Years 3 through 5 in the revenue analysis, the DAQ continues to manage the cash flow of the program through evaluation of revenues and expenditures, and corresponding adjustments to DAQ work on a year-by-year basis. If the DAQ is unable to eliminate the projected deficits through cash flow management, further future revisions to the Title V fees may be required.

Costs and Revenues Compared to 2020 Baseline

To determine the projected incremental costs to facilities and the equivalent additional revenues to DAQ through 2025, the DAQ compared the revenues projected for each year in the five-year period to the projected revenues under the 2020 base model scenario. The 2020 base model scenario incorporates an assumed number of facilities, calendar year 2018 reported emissions, and an application baseline that is reflective of the 5-year average historical application revenues from fiscal year 2014-2015 through fiscal year 2018-2019, adjusted for inflation using a CPI of 1.9%.⁸ The greatest cost impact is projected to be in the second year, due to inflation adjustments and a projected increase in emissions billed during this year. In years 3 through 5, the costs are expected to decline as the reduced tonnage costs due to decreasing emissions offsets increased fees due to inflation adjustments. The proposed fee changes are projected to cost Title V permit holders approximately \$8.2 million over five years in 2020-dollar terms.⁹ This value excludes the unquantified benefits to regulated entities and the public from maintaining a strong state-administered Title V program.

As required by G.S. § 150B-21.4(b1), the DAQ is required to determine whether the proposed rule changes have a “substantial economic impact,” defined as an aggregate financial impact on all persons affected of at least one million dollars (\$1,000,000) in a 12-month period. The DAQ has determined that the highest aggregate 12-month quantified impact is projected to occur in 2022 and is estimated at \$2.1 million in costs to Title V facilities and equivalent benefits to the DAQ, not including the unquantified benefits to regulated entities and the public. Therefore, the proposed fee changes are considered to have a substantial economic impact on North Carolina.

⁸ The projected revenues under the 2020 base model scenario are \$6,400,700, which differs from the actual receipts from fiscal year 2019-2020 of \$6,308,702.

⁹ In accordance with the North Carolina Administrative Procedures Act (APA), costs that occur in the future are required to be discounted by a factor of seven percent to determine the net present value (NPV) of the costs.

Table 10. Projected Annual Impacts of the Proposed Changes to the Title V Fees

Title V Fee Type	2020 ^a	Year 1 ^a	Year 2 ^a	Year 3 ^a	Year 4 ^a	Year 5 ^a
Annual Fees						
Base Permit Fees	-	\$718,983	\$761,949	\$805,577	\$849,876	\$894,858
Tonnage Fees	-	\$343,878	\$498,269	\$434,373	\$252,899	\$73,833
General Title V ACI Base Fees	-	\$3,577	\$3,746	\$3,918	\$4,093	\$4,270
Annual Fees Impact	-	\$1,066,438	\$1,263,965	\$1,243,868	\$1,106,869	\$972,961
Complexity Add-in						
Moderately Complex	-	\$320,000	\$324,928	\$329,932	\$335,013	\$340,172
Highly Complex	-	\$240,000	\$243,696	\$247,449	\$251,260	\$255,129
Complexity Fees Impact	-	\$560,000	\$568,624	\$577,381	\$586,272	\$595,301
Application Fees ^b						
Minor Modification Fee	-	\$95,846	\$97,322	\$98,820	\$100,342	\$101,888
Significant Modification Fee	-	\$179,346	\$182,108	\$184,912	\$187,760	\$190,651
Application Baseline	-	\$3,543	\$7,141	\$10,795	\$14,504	\$18,271
Application Fee Impact	-	\$278,735	\$286,571	\$294,527	\$302,606	\$310,810
Total Annual Impact	-	\$1,905,173	\$2,119,159	\$2,115,776	\$1,995,747	\$1,879,072
Total Five Year Impact						
		\$10,014,928				
Net Present Value of Costs to Regulated Community, Benefit to DAQ						
		\$8,220,893				

^a The impacts for Years 1 through 5 are based on a comparison of projected revenues for Years 1 through 5 and the projected revenues from the 2020 base model scenario. The 2020 model scenario incorporates an assumed 279 Title V facilities, 10 Title V ACI General permits, CY 2018 reported emissions, and the 5-year average annual application revenues from fiscal years 2014-2015 through 2018-2019 with a 1.9% CPI adjustment applied. The 2020 revenues projected under this base model scenario differ from actual receipts for fiscal year 2019-2020, which are shown in Table 9 of this fiscal note.

^b The minor and significant modification values represent the difference between the application baseline and new proposed fees. The Application Baseline is based on the 5-year average of total Title V applications billed in fiscal year 2014-2015 through fiscal year 2018-2019, adjusted for inflation each year in the analysis. It is assumed that application volumes and types remain constant each year in the analysis.

Key Uncertainties

The inputs to the revenue analyses presented in this fiscal note contain various assumptions, some of which were based on historical averages or future projections. Due to the nature of these assumptions and various factors affecting the fees, the DAQ has identified some key uncertainties in the revenue analyses,

such as the assumed CPI factor of 1.54%, the projected tonnage values, total number of Title V facilities statewide, and volume of applications received each year.

The revenue analysis uses a CPI increase of 1.54%, based on the 5-year average IMF US Inflation Forecast¹⁰. 15A NCAC 02Q .0204 specifies that inflation adjustments will be made in accordance with 40 CFR 70.9(b)(2)(iv), which identifies the Consumer Price Index for any calendar year as the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, at the close of the 12-month period ending on August 31 of each calendar year. Review of the CPI increases applied by the DAQ to determine the fees for CY 2017 through 2020 indicate that the approximate range of the CPI factor used in this time period was 0.8% to 2.4%. Using a CPI factor of 2.4% in the revenue analysis performed by the DAQ results in approximately \$733,000 of additional impact over the 5-year period¹¹. Use of a CPI factor of 0.8% in the revenue analysis results in approximately \$621,000 less in impact over the 5-year period. Current CPI predictions appear to range from 0.6%¹² to 0.86%¹³ for 2020, and around 2%¹⁴ thereafter. If applied each year, the CPI factor of 0.6% results in about \$787,000 less in revenue over the 5-year period. On an annual basis, this represents approximately 0.2% to 3.6% of the total Title V funds required each year over the 5-year period.

The DAQ assumed that the total number of Title V facilities will remain constant at 279, and that tonnage billed will decrease over time, with the exception of an increase in tons billed in the second year. As discussed previously, these emission projections were formed based on analysis and correspondence with some Title V sources in the state. The projections provided for these sources were added to the CY 2018 reported emissions for the remaining sources to arrive at the five-year projections. Due to the numerous factors affecting emissions and operations of a particular source and the number of sources in the state, the DAQ could not reasonably and accurately predict the emissions from all Title V sources through the time period used for this analysis. Since a significant portion of the total revenues are due to tonnage fees, a substantial difference between the actual tonnage billed and the values used in the revenue analyses would have a significant effect on the total Title V revenues. If the revenue analysis inputs have been underestimated such that total revenues are insufficient to cover the costs of the program, the DAQ may need to further revise the Title V fees in the future in order to meet its funding obligations under the CAA Section 502.

VIII. Rule Alternatives

The DAQ is required to analyze alternative approaches under the proposed rulemaking if a substantial economic impact to the state and/or private sector entities is expected to result from the rulemaking. The

¹⁰ 5-year average CPI factor of 1.54% obtained as the IMF US Inflation forecast from: <https://knoema.com/kyaewad/us-inflation-forecast-2020-2021-and-long-term-to-2060-data-and-charts>

¹¹ The Year 1 through Year 5 impacts under each CPI scenario in the sensitivity analysis compares each Projected Year's revenues with the projected 2020 base model scenario, which uses assumptions and averages as described in footnote a to Table 10. The revenues under this base model scenario differ from actual fiscal year 2019-2020 receipts, which are shown in Table 9.

¹² 2020 Forecast CPI factor of 0.6% obtained as the IMF US Inflation forecast from: <https://knoema.com/kyaewad/us-inflation-forecast-2020-2021-and-long-term-to-2060-data-and-charts>

¹³ 2020 Forecast CPI factor of 0.86% from IHS Markit.

¹⁴ Based on forecast CPI factors from the IMF US Inflation forecast and IHS Markit.

DAQ researched the Title V fee structures in other states, with a focus on those implemented in the surrounding southeastern states. During this process, the DAQ determined that some surrounding states were also considering Title V fee changes. The research indicated that no two states have the exact same fees, but all states or local entities use various combinations of the following types of fees:

- 1) Tonnage, or “per ton” fees, based on either allowable or actual emissions.
- 2) Base annual fees, including minimum fees, a single base fee for all facilities, tiered base fees, and base fees for certain categories, such as EGUs or paper mills. Several states do not charge base annual fees.
- 3) Application fees, including fees that vary based on the type of application, extent of the review, or other factors. Others have limited application fees or only charge fees for expedited or greenfield applications.
- 4) Hourly review fees; and
- 5) “A la carte” options which include added fees for compliance activities, such as stack test observations or inspection report reviews, added annual fees, such as complexity fees or hazardous air pollutant (HAP) fees, and added fees for various application components, such as public comment periods or air dispersion modeling.

The DAQ presented the various fee options implemented in surrounding states to the stakeholder group for evaluation. The analysis below presents three alternatives to the proposed fee changes described in Section IV of this fiscal note. Alternative 1 presents a baseline scenario in which the Title V fees are only adjusted using the annual inflation adjustment already allowed by the rule. Alternatives 2 and 3 present two of the options that are currently utilized in surrounding states.

Alternative 1: No Fee Changes

The current language of 15A NCAC 02Q .0203 contains the annual fees applicable for CY 2011 and application fees applicable for CY 1994, and allows these fees to be adjusted for inflation annually using a CPI factor, as specified in 15A NCAC 02Q .0204. Without the proposed fee increases described in Section IV of this fiscal note, the 2021 Title V annual and application fees would only increase by the CPI factor. Using a 5-year average CPI increase of 1.54 percent, the annual base and tonnage fees for 2021 are projected to be \$7,537 per facility and \$34.83 per ton, respectively, with no additional complexity fees. Using a constant Title V facility count of 279 and the CY 2019 reported emissions of 114,018 tons, the state would be expected to receive \$85,656 less annual fees in 2021 than received in fiscal year 2019-2020. The projected Year 1 revenue under this alternative is based on the historical 5-year annual average application revenues from fiscal year 2014-2015 through fiscal year 2018-2019, which was adjusted using a CPI of 1.9% to project a 2020 revenue, and then adjusted again using a CPI of 1.54% to project the 2021 revenue. The state would be projected to receive an additional \$95,542 in application fees under this alternative as compared to fiscal year 2019-2020 receipts. The result of this alternative is a projected revenue increase of \$9,885, which is insufficient to resolve the projected funding shortfall. The costs associated with this alternative are summarized in Table 11 below.

The estimated total Title V fees received in Year 1 under this alternative are projected to be \$6,318,587 which results in a projected deficit of \$1,759,123 during 2021. With such a funding shortfall, the DAQ would not fulfill its obligations under CAA Section 502(b)(3) to collect sufficient revenues to fund its

Title V program. Insufficient revenues could negatively impact the quality of the DAQ's Title V operating permit program. Such negative impacts could result in loss of staff, which could lead to longer permit processing timeframes and diminished permit quality. Under 40 CFR §70.10(c), circumstances, in whole or part, that could lead to EPA withdrawal of program approval include the State's failure to collect fees in accordance with 40 CFR §70.9, repeated issuance of permits that do not conform to the requirements of Part 70, failure to act in a timely way on permit applications, violations of permits or other program requirements, and failure to inspect and monitor activities. In the event that the EPA withdraws approval of North Carolina's Title V operating permit program, the EPA may promulgate, administer, or enforce a Title V Federal program within 2 years. The DAQ's ability to provide quality Title V permits that can withstand EPA scrutiny is important to both the regulated community and citizens of the state.

Table 11. Alternative 1 Projected Revenues

Title V Fee Type	Fiscal Year 2019-2020 Receipts	Projected Year 1 Revenue	Revenue Difference
Annual Fees			
Base Permit Fee ^a		\$2,102,911	
Tonnage Fee ^b		\$3,971,044	
Complexity Add-in		\$0	
General Title V ACIs Base Fee ^c		\$11,000	
Annual Subtotal	\$6,170,611	\$6,084,955	-\$85,656
Application Fees			
All Title V applications	\$138,091	\$233,633	\$95,542
Total	\$6,308,702	\$6,318,587	\$9,885
Projected base funding needed	\$8,077,710	\$8,077,710	
Adjuster for planning	7%	7%	
Adjusted projected funding needed	\$8,643,150	\$8,643,150	
Funding deficit (without planning adjuster)	\$1,769,008	\$1,759,123	
Funding deficit (with planning adjuster)	\$2,334,448	\$2,324,562	

^a The projected 2021 base fee revenues reflect a total of 279 facilities and a base permit fee of \$7,537 per facility which reflects the 2020 fee with 1.54% CPI adjustment.

^b The projected 2021 tonnage fee revenues were calculated using the CY 2019 reported emissions of 114,018 tons with a tonnage fee of \$34.83 per ton, which reflects the 2020 tonnage fee with 1.54% CPI adjustment.

^c 2021 ACI base fees reflect 11 ACI Title V facilities, based on the assumption that one pending ACI Title V application will be issued prior to the end of 2020.

^d “All Title V Applications” represents the fees received for all Title V applications, including greenfield facilities, minor and significant modifications, PSD and Nonattainment applications, ownership changes, and construction notifications. The fiscal year 2019-2020 receipts reflect the actual revenues received from Title V applications during fiscal year 2019-2020. The projected 2021 value was determined by averaging Title V application fees received from FY 2014-2015 through FY 2018-2019, applying a 1.9% CPI adjustment, and an additional 1.54% CPI adjustment.

^e The DAQ determined that an additional \$580,800 of Title V funds are required to implement the salary administration program, which is approximately 7% of the projected base funding required for the Title V program.

Further, this alternative does not provide the DAQ with the Title V revenues necessary to administer the salary administration plan described in Section II, which could lead to increased staff turnover and loss of talent, and hinder the DAQ's ability to maintain the level of customer service currently provided to the regulated community and citizens of the state. The DAQ has determined that noncompliance with CAA Section 502(b)(3) and diminished customer service are undesirable outcomes and therefore, this alternative was not chosen.

Alternative 2: Larger Increase in Tonnage Fee

During the research of surrounding states' Title V fee structure, it was noted that at least one state, Kentucky, relies entirely on tonnage fees for funding the Title V program. The DAQ explored the option of a larger increase in the tonnage fee factor, with no changes to the other types of fees currently in place in North Carolina. A factor of \$47.50 per ton was considered in combination with the emissions billed in 2019, reflecting 2017 reported emissions, while keeping all other fees constant. Based on an evaluation of the Title V facilities and discussions with some of the Title V facilities, the DAQ projected further emission decreases over the next five years, with a projected total of 100,906 tons billed in Year 5, which reflects a decrease in emissions of approximately 17 percent from 2020-billed emissions. While a sufficient increase in tonnage factor could result in the additional Title V revenues needed to cover the base Title V funding requirements, it was agreed by the DAQ and stakeholder group that increased reliance on tonnage was not a sustainable funding model due to the projected decreases in emissions moving forward.

Additionally, one of the key tenets of the stakeholder proposal was to increase the correlation between the DAQ resources utilized at a given facility and the fees charged to that facility, primarily through addressing complexity. It was noted that the total emission tonnage at a particular facility does not necessarily reflect the amount of DAQ resources utilized to implement the Title V program at that facility. As certain facility categories implement numerous applicable federal regulations, the emissions at that facility will decrease, while the DAQ's workload increases.

Due to the projected decrease in emissions from Title V sources, potential for disconnect between a facility's emission tonnage and usage of DAQ resources, and agreement from the stakeholder group to decrease reliance on emission tonnage, this alternative was not selected as the best option to resolve the projected Title V funding shortfalls.

Alternative 3: Hourly Review Charges for Staff Time

One method of linking the fees paid by a particular facility directly to DAQ workload would be to charge hourly processing fees in order to recover the cost of DAQ staff time to review and process documents. Research indicates that while hourly processing fees do not appear prevalent in southeastern states, various forms of hourly processing fees are used in New Hampshire, Oklahoma, Alaska, Colorado, Delaware, Idaho and Iowa. Under this alternative, the hourly processing fees would be charged to each facility at a rate corresponding to the DAQ staff's hourly salary for time spent on tasks such as reviewing permit applications and compliance reports, conducting investigations, and observing stack tests. Permit holders would be charged after completion of the task, similar to billing methods used by consultants. The direct correlation between staff time spent on a particular facility and the fees paid by that facility would

ensure the DAQ receives sufficient Title V funds to cover the portion of staff salaries attributable to Title V program implementation, which comprises the majority of the Title V funds necessary to implement the program.

This alternative would require the DAQ to track individual staff time spent on each task pertaining to a particular Title V facility, which places additional workload on the DAQ without environmental benefit. Additionally, this option adds uncertainty to the regulated community since facilities would not know the fee for a particular project until completion. During the stakeholder meetings, the group agreed to a common goal of maintaining simplicity and certainty in the Title V fee structure in North Carolina. As described above, the addition of hourly processing fees would not meet these objectives established by the stakeholder group. Therefore, the addition of hourly processing fees was not selected as the best option for addressing the DAQ's Title V funding needs.

VIII. Conclusion

As described in this fiscal note and in accordance with 40 CFR 70.9, the DAQ must “...require that the owners or operators of Part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the [Title V] program costs...” The DAQ projects to have Title V funding shortfalls in fiscal year 2020-2021 and onward. Failure to address the Title V funding shortfalls could result in incomplete implementation of the Title V program, and eventual withdrawal of EPA's approval of North Carolina's Title V operating permit program.

In order to resolve the projected funding shortfalls, the DAQ is proposing to revise the Title V fees in 15A NCAC 02Q .0203 as described in this fiscal note. The proposed fee revisions were developed through a series of stakeholder meetings in which the DAQ discussed the various fee options with a group of representatives from the Title V regulated community, environmental consulting and legal sectors, and nongovernmental environmental groups. In addition to the funds needed to support the Title V program, the DAQ presented the need for Title V funds to support a salary administration program designed to create and maintain competitive salaries in order to effectively recruit and retain talent so that the DAQ can continue to provide the same level of service currently being provided to the regulated community and citizens of North Carolina. The stakeholder group agreed to a phased approach in which the Title V funds needed for the salary administration program are integrated over three years. The DAQ researched the Title V fees collected in other states, presented various options to the stakeholder group along with a proposed funding model, and considered all options brought forward by the group. The fee revisions proposed in this rulemaking are the unanimous recommendation of the stakeholder group. An additional presentation of the proposed fee revisions was made available to the entire Title V regulated community on July 29, 2020.

The DAQ is proposing to increase the annual base fee, annual tonnage fee, and permit modification fees for Title V sources. Additionally, the DAQ is proposing to add an annual complexity fee for facilities, based on the number of applicable federal programs.

Based on the analysis of the costs associated with the increased fees, the DAQ projects a cost to the regulated community and equivalent revenue to the DAQ of approximately \$1.9 million the first year and

\$2.1 million the second year, subsequently decreasing to approximately \$1.9 million at the end of the five-year period evaluated. These values exclude the unquantified benefits to regulated entities and the public from maintaining a strong state-administered Title V program. The approximate cost breakdown for the first year is as follows: \$1.74 million to private industry, \$99,000 to local government facilities, \$16,000 to state government facilities, and \$45,000 to the federal government facilities.

Under the proposed fee schedule, the DAQ anticipates a surplus of over \$150,000 in the first two years followed by a small shortfall in Year 3, increasing to a shortfall of 240,000 by Year 5.

1 15A NCAC 02Q .0203 is proposed for amendment as follows:

2

3 **15A NCAC 02Q .0203 PERMIT AND APPLICATION FEES**

4 (a) The owner or operator of any facility holding a permit shall pay the following permit fees:

ANNUAL PERMIT FEES
(FEES FOR CALENDAR YEAR ~~2014~~2021)

Facility Category	Tonnage Factor	Basic Permit Fee	Nonattainment Area Added Fee
Title V	\$30.00 <u>\$40.00</u>	\$6,500 <u>\$10,000</u>	\$3,500 <u>\$3998</u>
Synthetic Minor		\$1,500	
Small		\$250	
General		50% of the otherwise applicable fee	
<u>General Title V ACI</u>		<u>10% of the otherwise applicable fee</u>	

5

6 A facility, other than a Title V facility, that has been in compliance is eligible for a 25 percent discount from the annual
7 permit fees as described in ~~Paragraph (a) of~~ 15A NCAC 02Q .0205(a). Annual permit fees for Title V facilities in this
8 Paragraph shall be adjusted for inflation as described in 15A NCAC 02Q .0204. ~~Annual permit fees for Title V~~
9 ~~facilities consist of the sum of the applicable fee elements. The current annual permit fees shall be found on the~~
10 ~~Division's website at [https://deq.nc.gov/about/divisions/air_quality/air_quality_permits/modifying_applying_for_air](https://deq.nc.gov/about/divisions/air_quality/air_quality_permits/modifying_applying_for_air_quality_permit)~~
11 ~~quality_permit~~. Annual permit fees for Title V facilities in this Paragraph are equal to the sum of the basic permit fee,
12 tonnage factor fee, and nonattainment area added fee, as applicable.

13 (b) In addition to the annual permit fees required by Paragraph (a) of this Rule, the owner or operator of a Title V
14 facility shall pay the following annual complexity fee, as applicable:

15 (1) For facilities subject to at least three and no greater than six of the federal programs identified in
16 Paragraph (c), the added annual complexity fee shall be \$2,500; or

17 (2) For facilities subject to seven or greater of the federal programs identified in Paragraph (c), the
18 added annual complexity fee shall be \$7,500.

19 Annual complexity fees for Title V facilities shall be adjusted for inflation as described in 15A NCAC 02Q .0204.

20 (c) Each of the programs and regulations identified in Subparagraphs (1) through (5) of this Paragraph are considered
21 a federal program for the purposes of determining complexity fees under Paragraph (b) of this Rule:

22 (1) The PSD program is considered one federal program for any facility that is subject to 15A NCAC
23 02D .0530;

1 (2) The Risk Management Program under Section 112r of the Clean Air Act is considered one federal
2 program for any facility that is subject to 15A NCAC 02D .2100;

3 (3) Each Subpart under 40 CFR Part 60, New Source Performance Standards (NSPS) is considered one
4 federal program, with the exception of Subparts A, B, Ba, and C;

5 (4) Each Subpart under 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants
6 (NESHAP) is considered one federal program, with the exception of Subpart A; and

7 (5) Each Subpart under 40 CFR Part 63, NESHAP for Source Categories, is considered one federal
8 program, with the exception of Subparts A, B, C, D, and E.

9 The sum of all applicable federal programs identified in Subparagraphs (1) through (5) of this Paragraph shall be used
10 to determine the annual complexity fee in accordance with Paragraph (b) of this Rule.

11 ~~(b)(d)~~ In addition to the annual permit fee, fee and annual complexity fee, a permit applicant shall pay a non-refundable
12 permit application fee as follows:

PERMIT APPLICATION FEES
(FEES FOR CALENDAR YEAR ~~1994~~2021)

Facility Category	New or Modification	New or Significant Modification	<u>Significant</u> Modification	Minor Modification	Ownership Change
Title V		\$7,200 \$10,177	<u>\$7,000</u>	\$700 <u>\$3,000</u>	\$50 <u>\$60</u>
Title V (PSD or NSR/NAA)	\$10,900 \$15,406				\$50 <u>\$60</u>
Title V (PSD and NSR/NAA)	21,200 \$29,965				\$50 <u>\$60</u>
Synthetic Minor	\$400				\$50
Small	\$50				\$50
General			50% of the otherwise applicable fee		\$25
<u>General Title V ACI</u>			<u>10% of the otherwise applicable fee</u>		

13
14 Permit application fees for Title V facilities shall be adjusted for inflation as described in 15A NCAC 02Q .0204. ~~The~~
15 ~~current permit application fees shall be found on the Division's website at [https://deq.nc.gov/about/divisions/air-](https://deq.nc.gov/about/divisions/air-quality/air-quality-permits/modifying-applying-for-air-quality-permit)~~
16 ~~quality/air-quality-permits/modifying-applying-for-air-quality-permit.~~

17 (e) The current annual permit fees, annual complexity fees, and permit application fees shall be found on the Division's
18 website at [https://deq.nc.gov/about/divisions/air-quality/air-quality-permits/modifying-applying-for-air-quality-](https://deq.nc.gov/about/divisions/air-quality/air-quality-permits/modifying-applying-for-air-quality-permit)
19 permit.

1 ~~(e)~~(f) If a facility, other than a general facility, belongs to more than one facility category, the fees shall be those of
2 the applicable category with the highest fees. If a permit application belongs to more than one type of application, the
3 fee shall be that of the applicable permit application type with the highest fee.

4 ~~(d)~~(g) The tonnage factor fee shall be applicable only to Title V facilities. It shall be computed by multiplying the
5 tonnage factor indicated in the table in Paragraph (a) of this Rule by the facility's combined total actual emissions of
6 all regulated air pollutants, rounded to the nearest ton, contained in the latest emissions inventory that has been
7 completed by the Division. The calculation shall not include:

- 8 (1) carbon monoxide;
- 9 (2) any pollutant that is regulated solely because it is a Class I or II substance listed pursuant to Section
10 602 of the federal Clean Air Act (ozone depleters);
- 11 (3) any pollutant that is regulated solely because it is subject to a regulation or standard pursuant to
12 Section 112(r) of the federal Clean Air Act (accidental releases); ~~and~~
- 13 (4) greenhouse gases; and
- 14 ~~(4)~~(5) the amount of actual emissions of each pollutant that exceeds 4,000 tons per year.

15 Even though a pollutant may be classified in more than one pollutant category, the amount of pollutant emitted shall
16 be counted only once for tonnage factor fee purposes and in a pollutant category chosen by the permittee. If a facility
17 has more than one permit, the tonnage factor fee for the facility's combined total actual emissions as described in this
18 Paragraph shall be paid only on the permit whose anniversary date first occurs on or after July 1.

19 ~~(e)~~(h) The nonattainment area added fee shall be applicable only to Title V facilities required to comply with 15A
20 NCAC 02D .0531 (Sources in Nonattainment Areas), 15A NCAC 02D .0900 (Volatile Organic Compounds), or 15A
21 NCAC 02D .1400 (Nitrogen Oxides) and either:

- 22 (1) are in an area designated in 40 CFR 81.334 as nonattainment, or
- 23 (2) are covered by a nonattainment or maintenance State Implementation Plan submitted for approval
24 or approved as part of 40 CFR Part 52, Subpart II.

25 ~~(f)~~(i) The facility category, Title V (PSD or NSR/NAA), in the permit application fees table in Paragraph ~~(b)~~(d) of
26 this Rule means a facility whose application shall be subject to review pursuant to 15A NCAC 02D .0530 (Prevention
27 of Significant Deterioration) or 15A NCAC 02D .0531.

28 ~~(g)~~(j) The facility category, Title V (PSD and NSR/NAA), in the permit application fees table in Paragraph ~~(b)~~(d) of
29 this Rule means a facility whose application shall be subject to review pursuant to 15A NCAC 02D .0530 and .0531.

30 ~~(h)~~(k) Minor modification permit applications that are group processed shall require the payment of only one permit
31 application fee per facility included in the group.

32 ~~(i)~~(l) No permit application fee shall be required for renewal of an existing permit, for changes to an unexpired permit
33 when the only reason for the changes is initiated by the Director or the Commission, for a name change with no
34 ownership change, for a change pursuant to 15A NCAC 02Q .0523 (Changes Not Requiring Permit Revisions), or for
35 a construction date change, a test date change, a reporting procedure change, or a similar change.

36 ~~(j)~~(m) The permit application fee paid for modifications pursuant to 15A NCAC 02Q .0400, Acid Rain Procedures,
37 shall be the fee for the same modification if it were subject to 15A NCAC 02Q .0500, Title V Procedures.

1 ~~(e)(n)~~ An applicant who files permit applications pursuant to 15A NCAC 02Q .0504 shall pay an application fee equal
2 to the application fee for the permit required pursuant to 15A NCAC 02Q .0500; this fee shall cover both applications,
3 provided that the second application covers only what is covered under the first application. If permit terms or
4 conditions in an existing or future permit issued pursuant to 15A NCAC 02Q .0500 are established or modified by an
5 application for a modification and if these terms or conditions are enforceable by the Division only, then the applicant
6 shall pay the fee under the column entitled "Minor Modification" in the table in Paragraph ~~(b)~~(d) of this Rule.

7
8 *History Note: Authority G.S. 143-215.3(a)(1),(1a),(1b),(1d);*
9 *Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective,*
10 *whichever is sooner.*
11 *Eff. July 1, 1994;*
12 *Amended Eff. January 1, 2015; March 1, 2008; April 1, 2004; April 1, 2001; July 1, 1996;*
13 *Readopted Eff. April 1, ~~2018-2018~~;*
14 *Amended Eff. _____.*
15
16
17



North Carolina DAQ Title V Fee Changes

Department of Environmental Quality

Concept for Air Quality Committee, July 8, 2020



Title V Fee Evaluation – Outline

1. Introduction & Background
2. Historical Data
3. Funding Gap
4. Salary Administration
5. State Comparison
6. Options Evaluation
7. Stakeholder Process
8. Recommendation

Introduction & Background

NC Title V Fees

- Clean Air Act Section 502(b)(3) requires each air agency to collect fees ***“sufficient to cover all reasonable (direct and indirect) costs required to develop and administer”*** its Title V program.
- 40 CFR Part 70 contains additional detail regarding Title V fees:
 - Preparing regulations... regarding the permit program, implementation or enforcement
 - Reviewing & acting on permit applications
 - Admin costs of running the permit program (application tracking (IT), compliance certifications, data entry)
 - Implementation and enforcing terms of a Part 70 permit
 - Emissions and ambient monitoring
 - Modeling, analysis or demonstrations
 - Preparing inventories and tracking emissions
 - Direct and indirect support to sources under the Small Business Stationary Source Technical and Environmental Compliance Assistance Program



Introduction & Background

NC Title V Fees

Last action: March 1, 2008

That rule change allowed a phase-in of increasing tonnage factor fees through 2011

\$22.50 / ton March 1, 2008

\$25.00 / ton January 1, 2009

\$27.50 / ton January 1, 2010

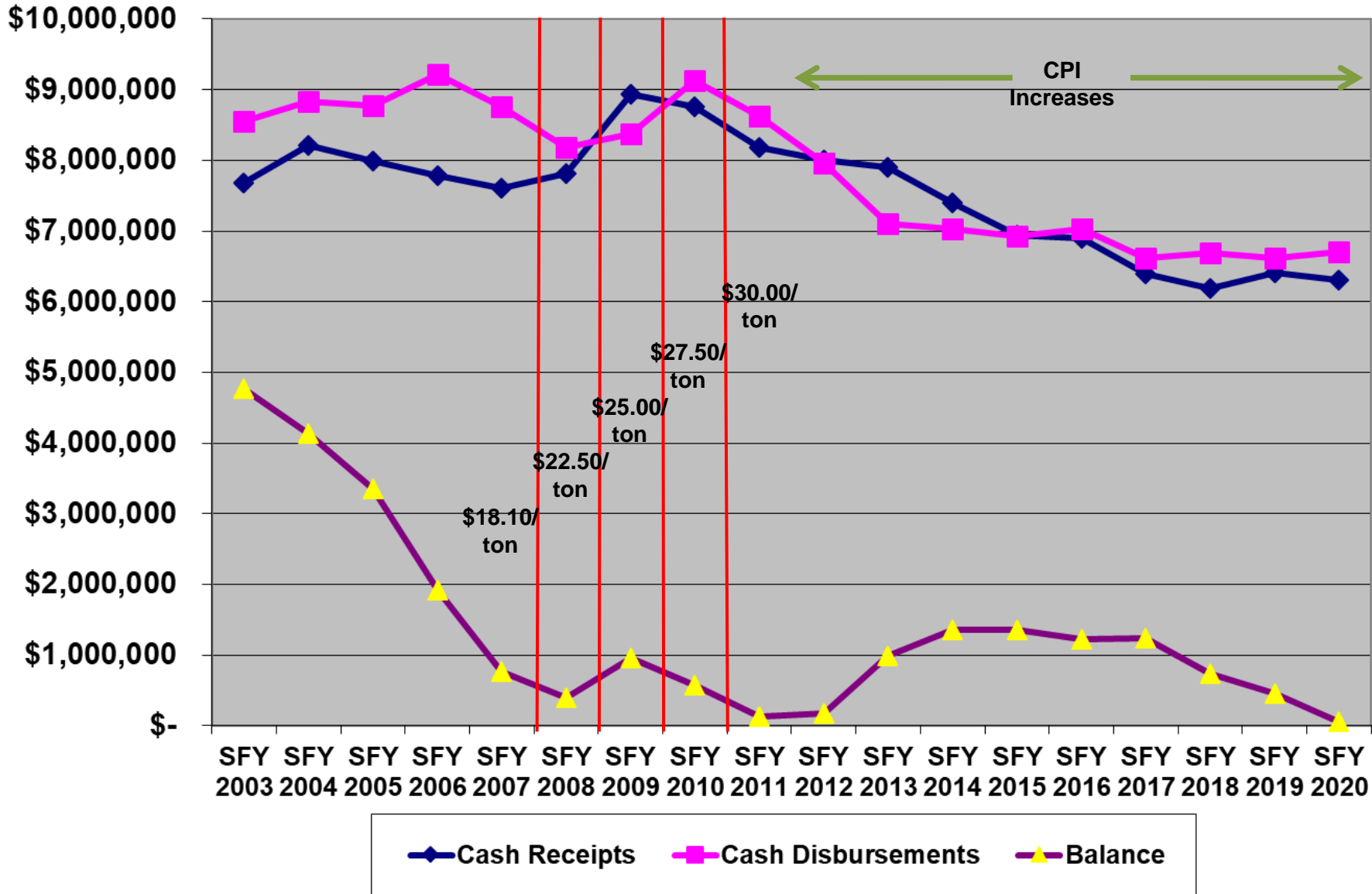
\$30.00 / ton January 1, 2011

Consumer Price Index (CPI) adjustments are allowed annually via the current rule.

\$34.25 / ton January 1, 2020



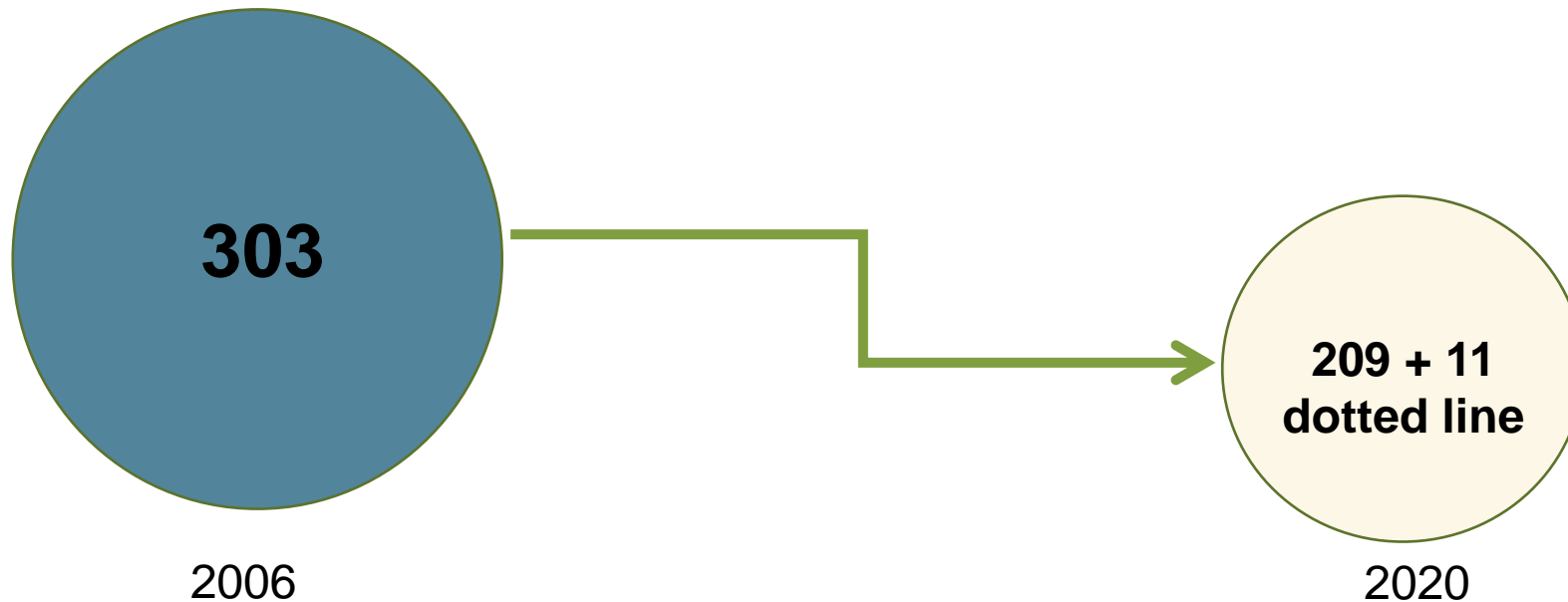
Title V Funds



Introduction & Background

What has DAQ done to reduce costs?

- Reduction in staffing across the board.



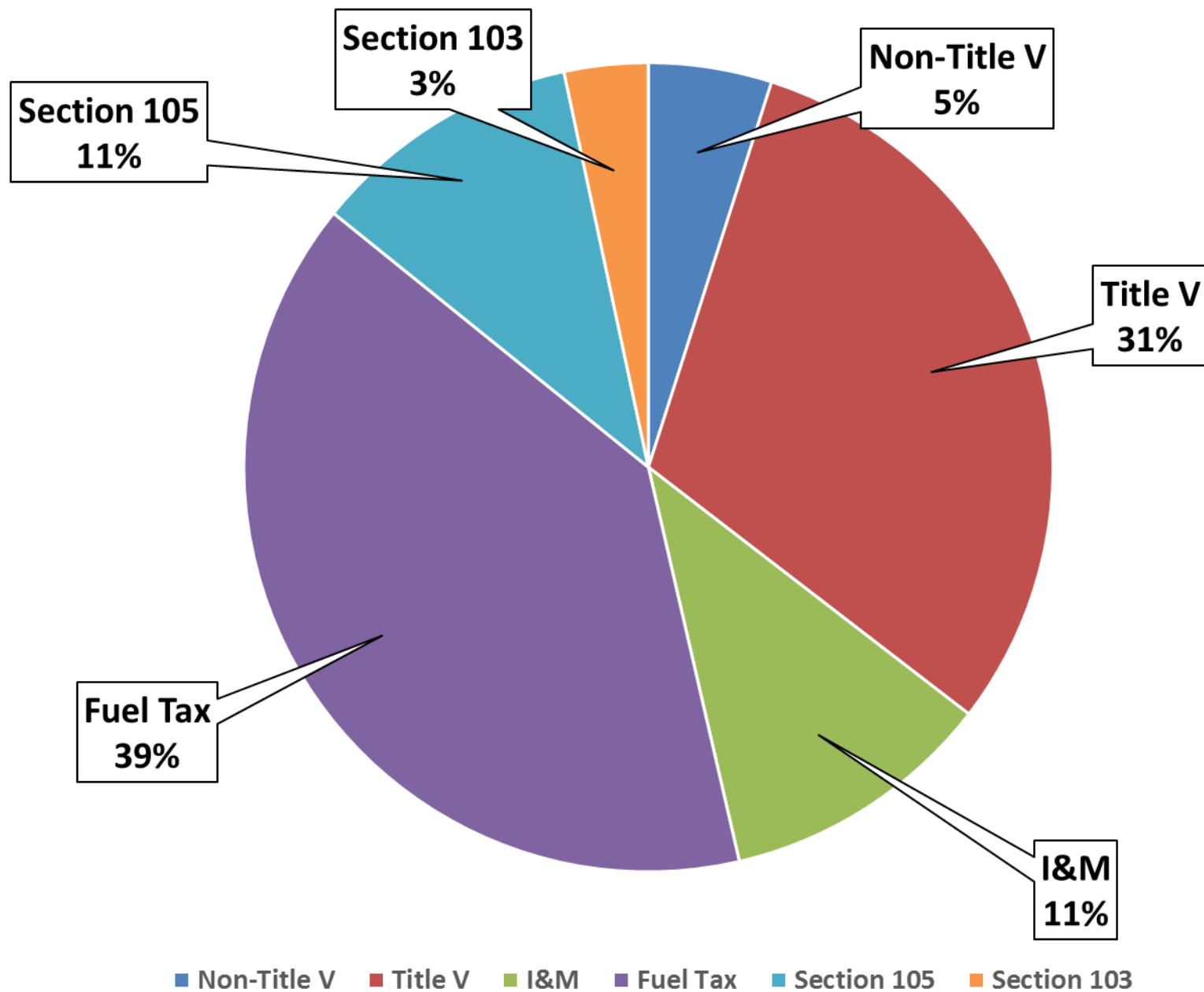
Introduction & Background

Emissions down, but not workload!

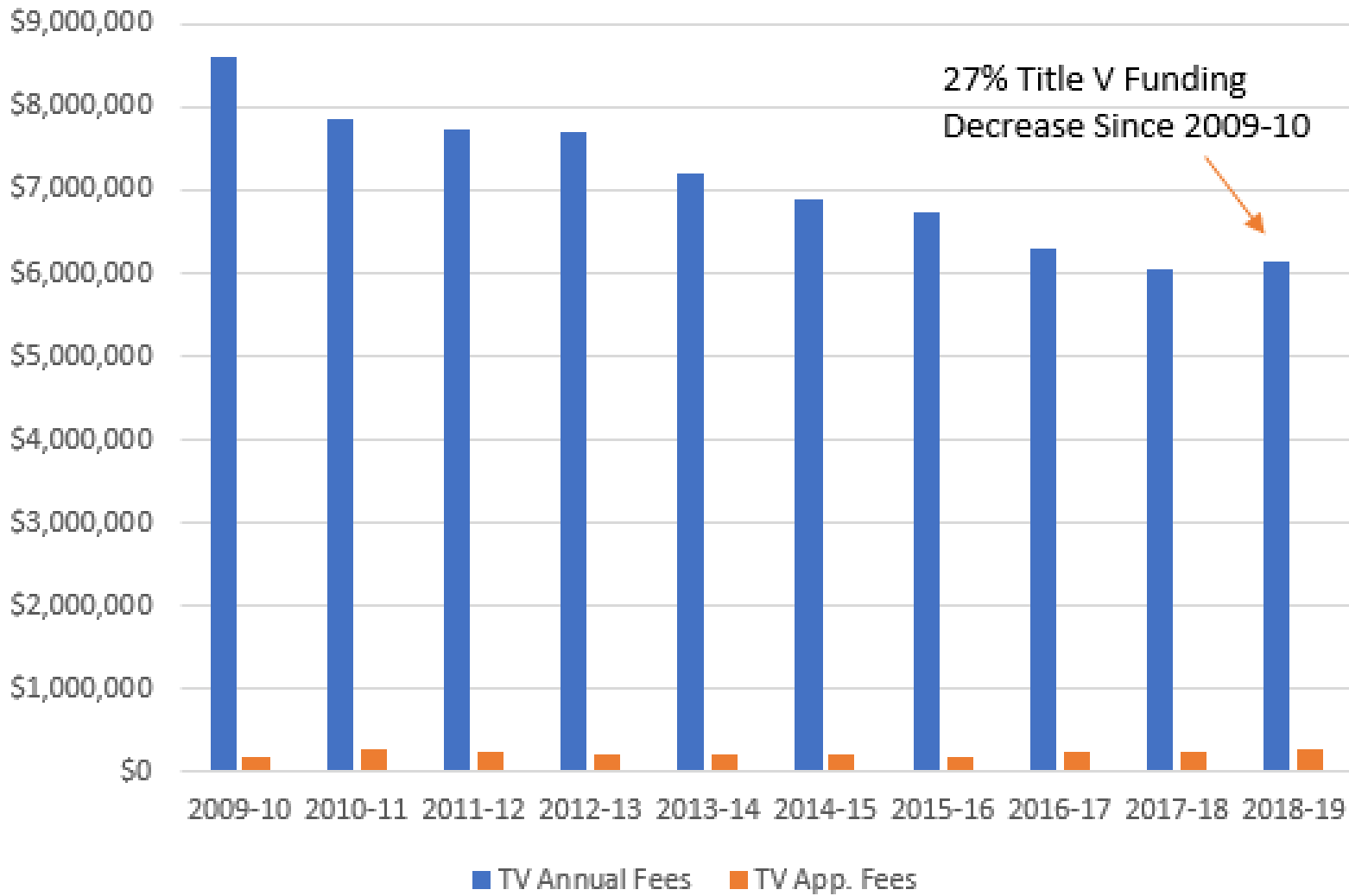
- What's changed since the last fee change?
 - 13% fewer Title V facilities
 - Revised NAAQS with attainment planning/implementation requirements (PM_{2.5}, O₃, several new SO₂/NO₂ ambient monitoring requirements)
 - Amendments to... or new Federal Regulations and Implementation:
 - New/Revised MACT Standards/RTR (Industrial Boilers, Utilities, RICE, etc.)
 - New/Revised NSPS Standards (Landfills, Oil & Gas, Pulp & Paper, ACI, etc.)
 - 112j MACT Hammer Implementation (Boiler MACT, SSM SIP Call)
 - Public expectations/engagement in the permitting process
 - Increased stack testing (protocols, reviews, observations)
 - Emerging compounds
 - Personal air sensors
 - Double digit PSD applications in-house
 - *Recently - Decentralized some Title V renewals to Regional Offices



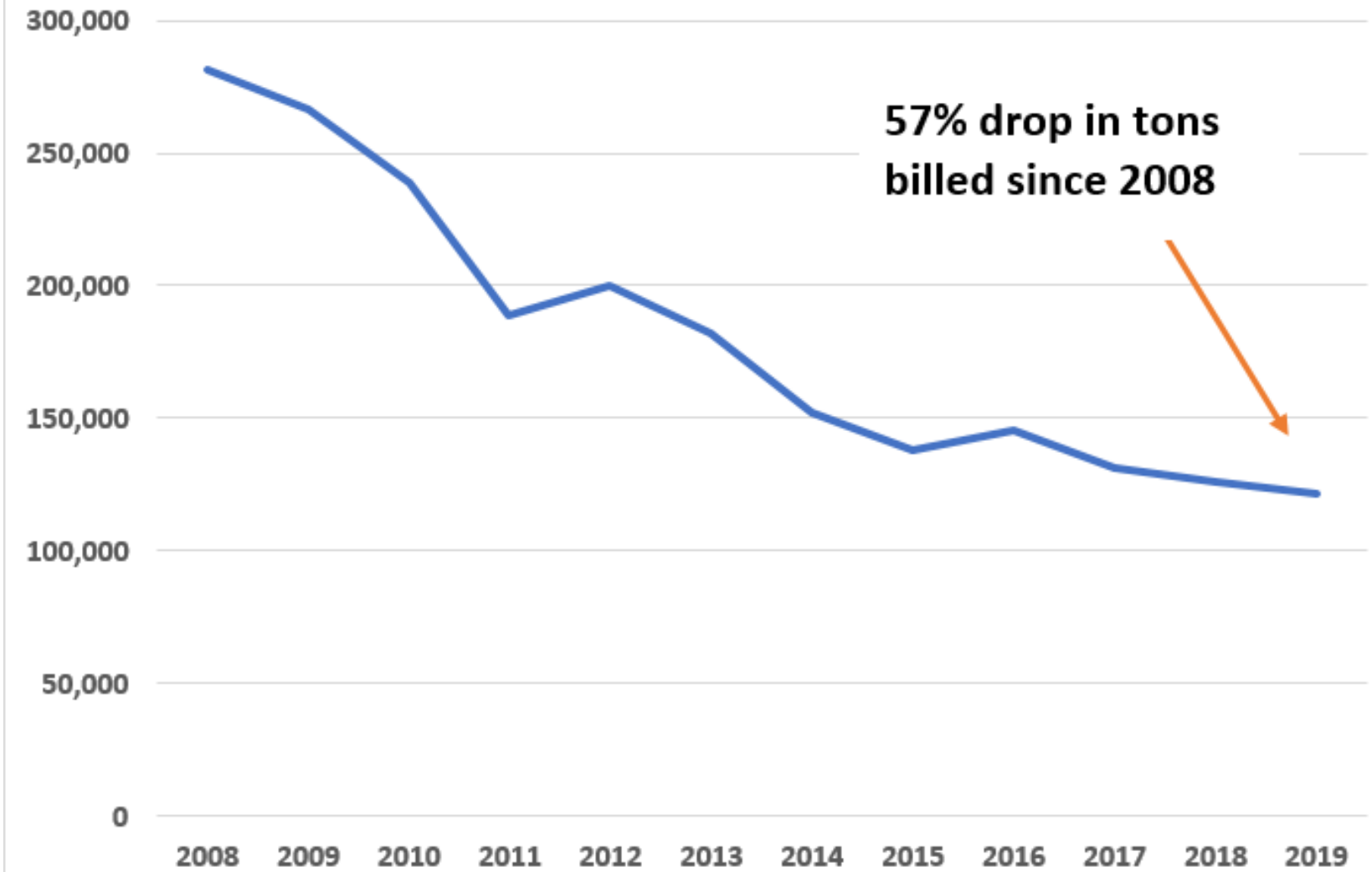
NC DAQ Revenues (SFY 19-20)



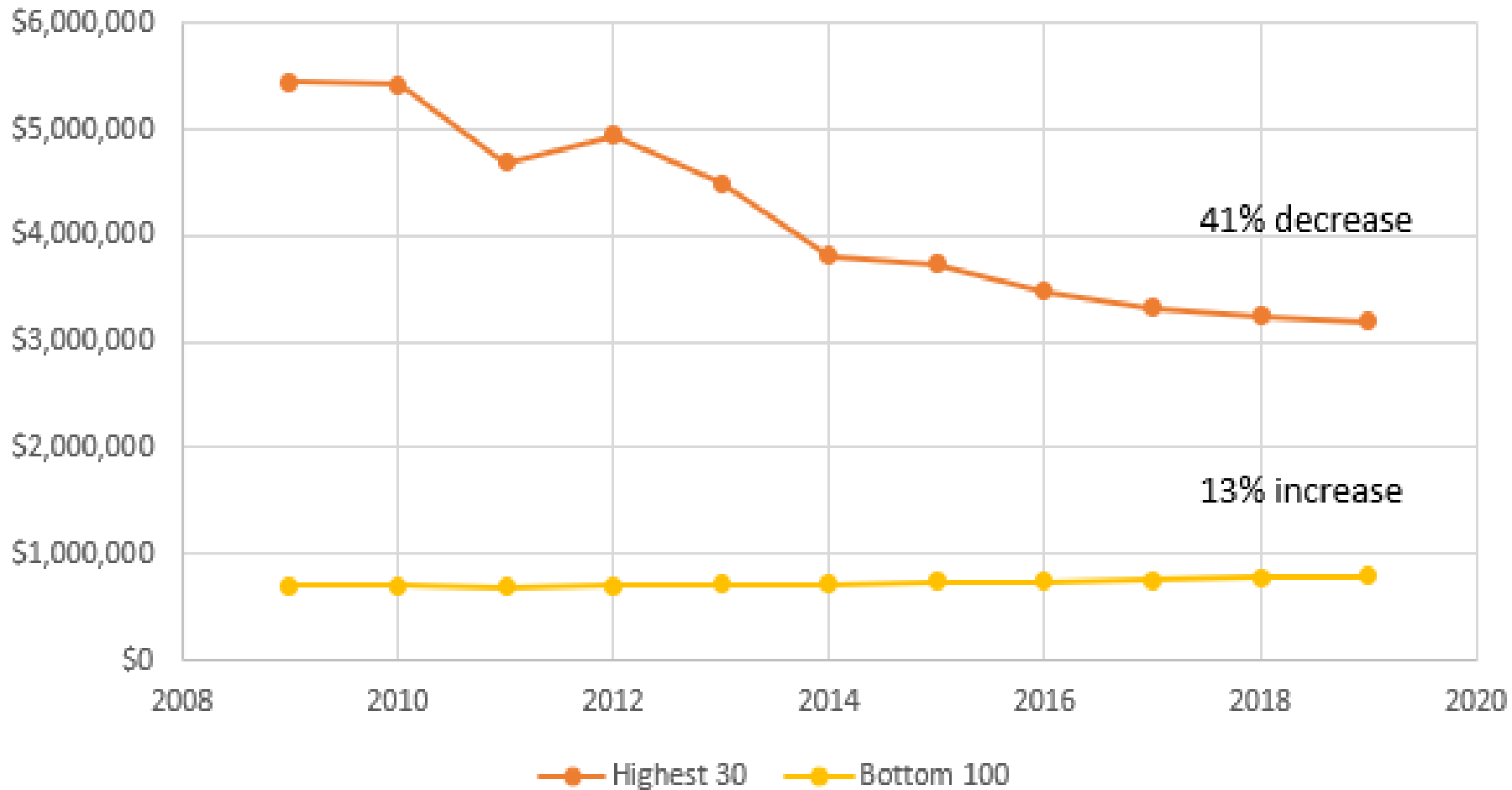
TOTAL TV FEES (ANNUAL FEES AND APPLICATION FEES)



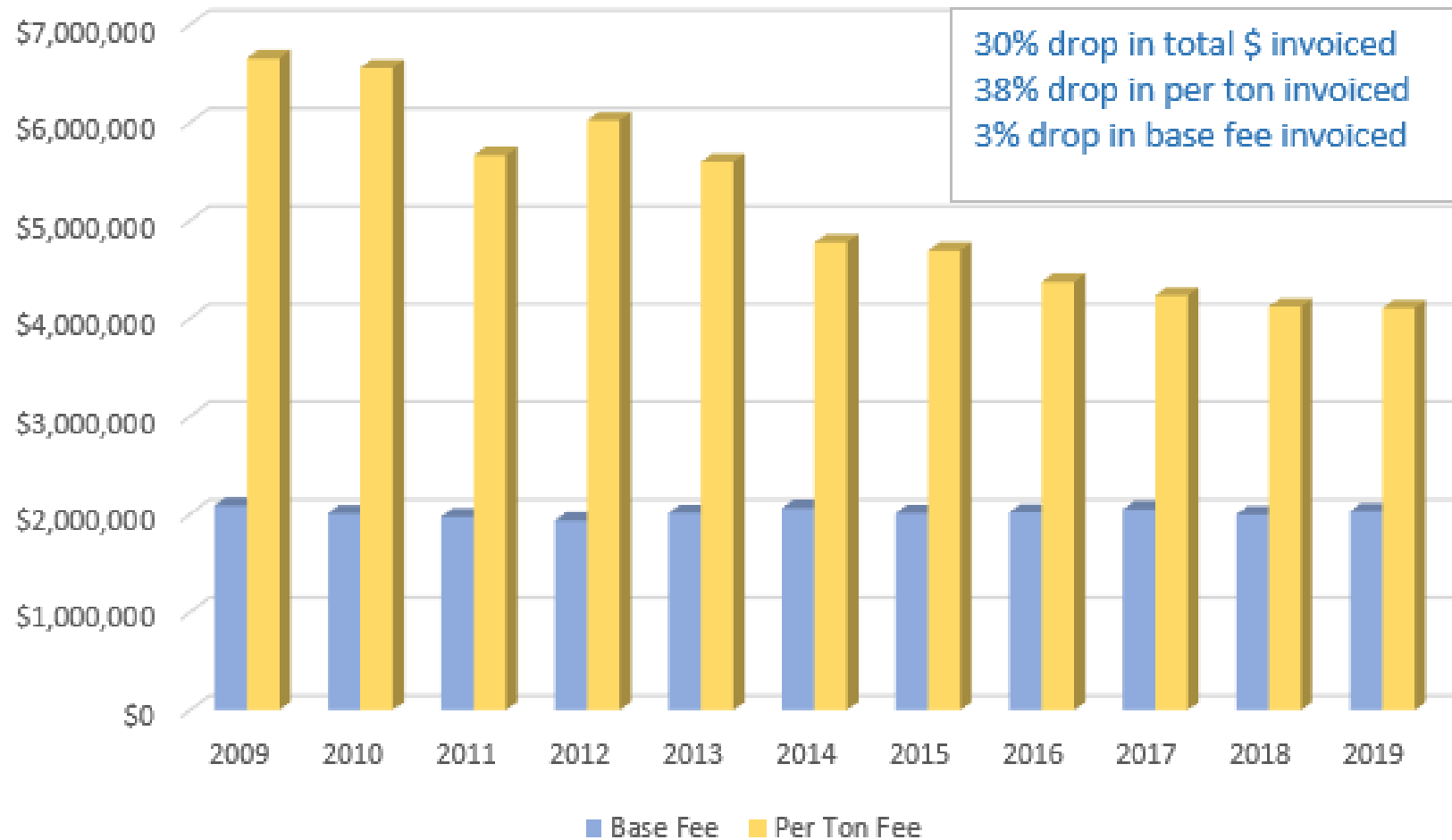
Tons Billed by Year



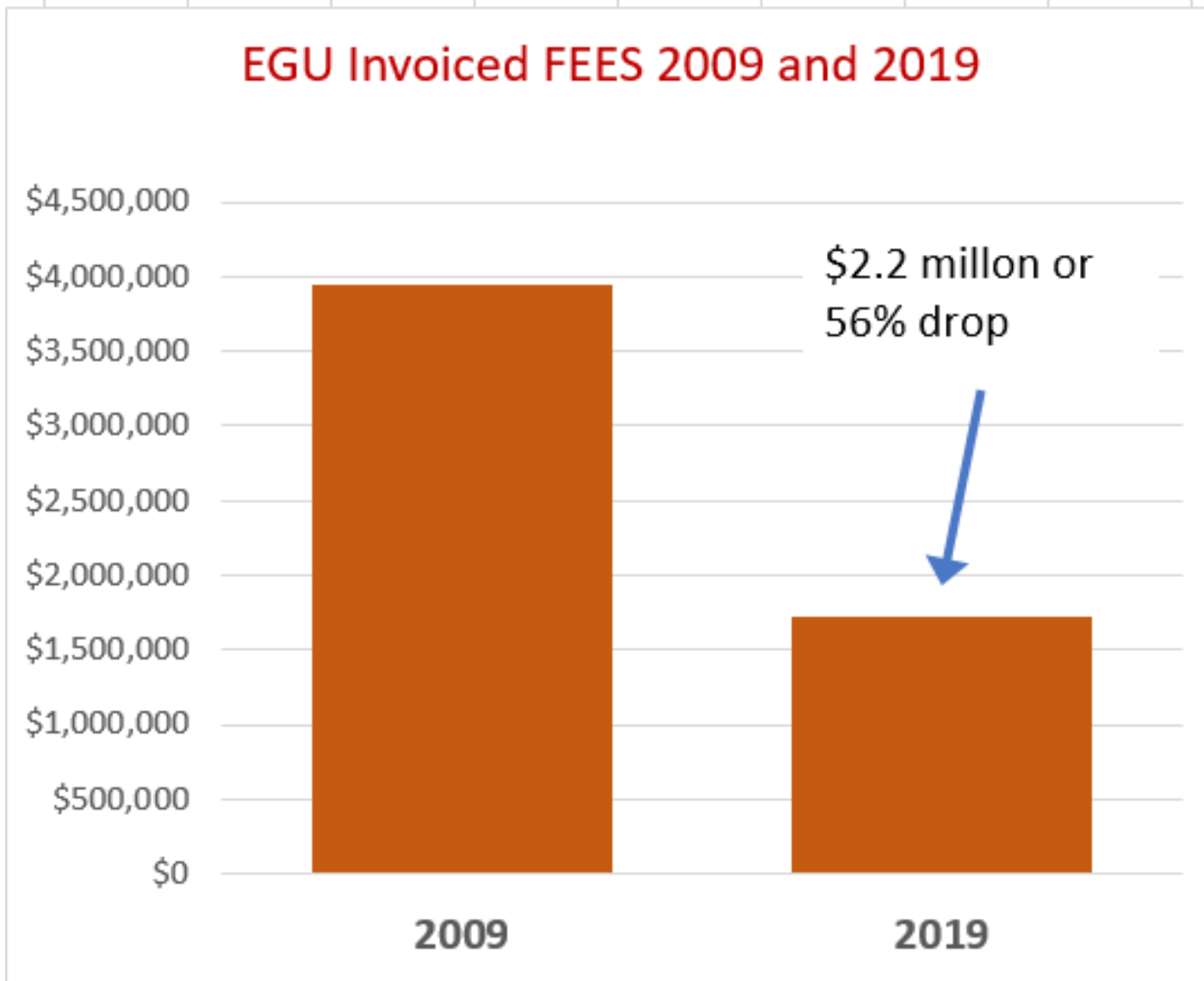
Total \$ "As Invoiced" 2009-2019 (Annual Fee -Top & Bottom Tiers)



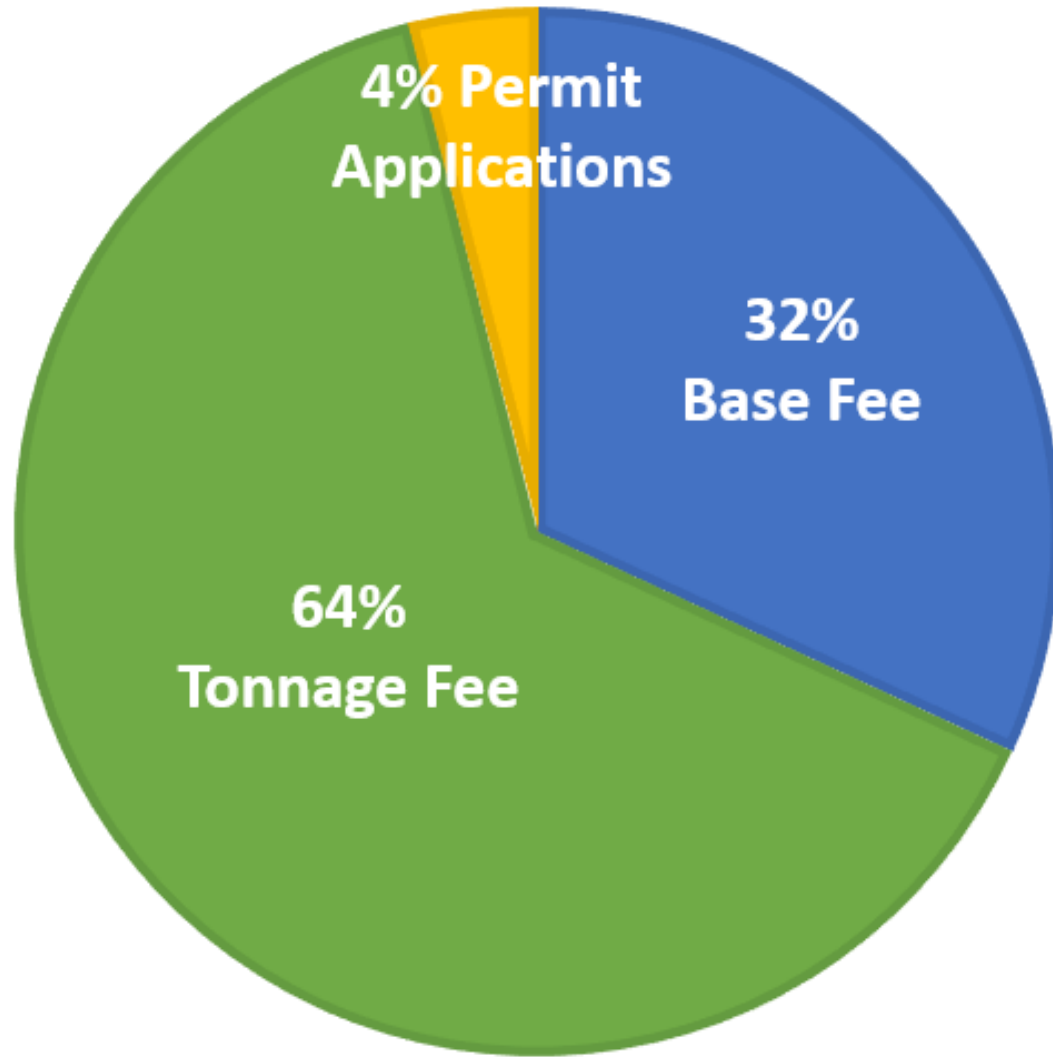
"Invoiced" Title V Annual FEES 2009-2019



EGU Invoiced FEES 2009 and 2019

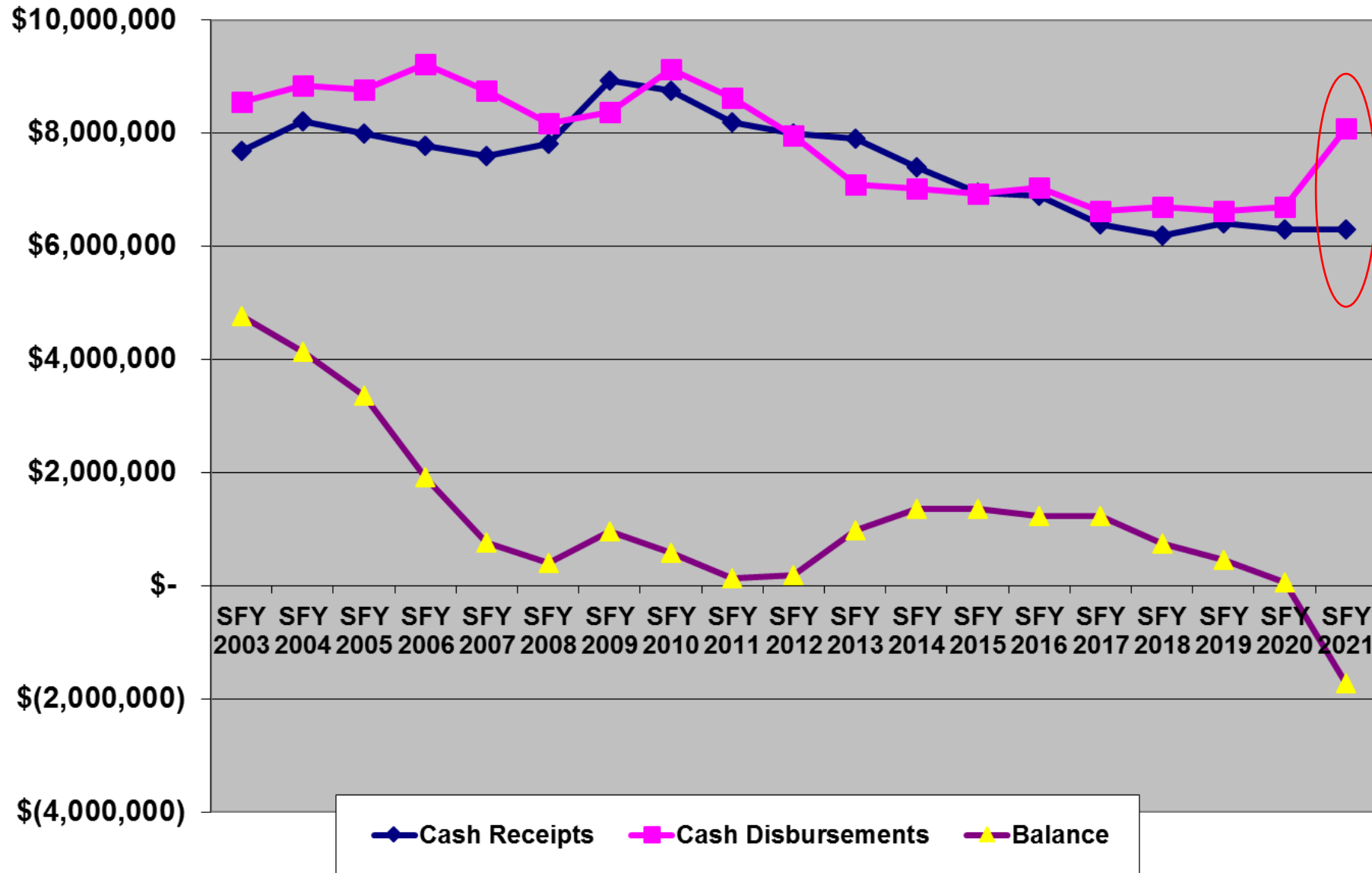


TITLE V FUNDING BY SOURCE (2019)



Title V Sources (2019)	279
FY 2018-19 TV Revenue	\$6,404,000
2009 % from tonnage	~75%

Title V Funds



Why the significant increase projected in SFY 20-21?

Internal review of time & activities revealed DAQ is under-charging staff time to the Title V account.

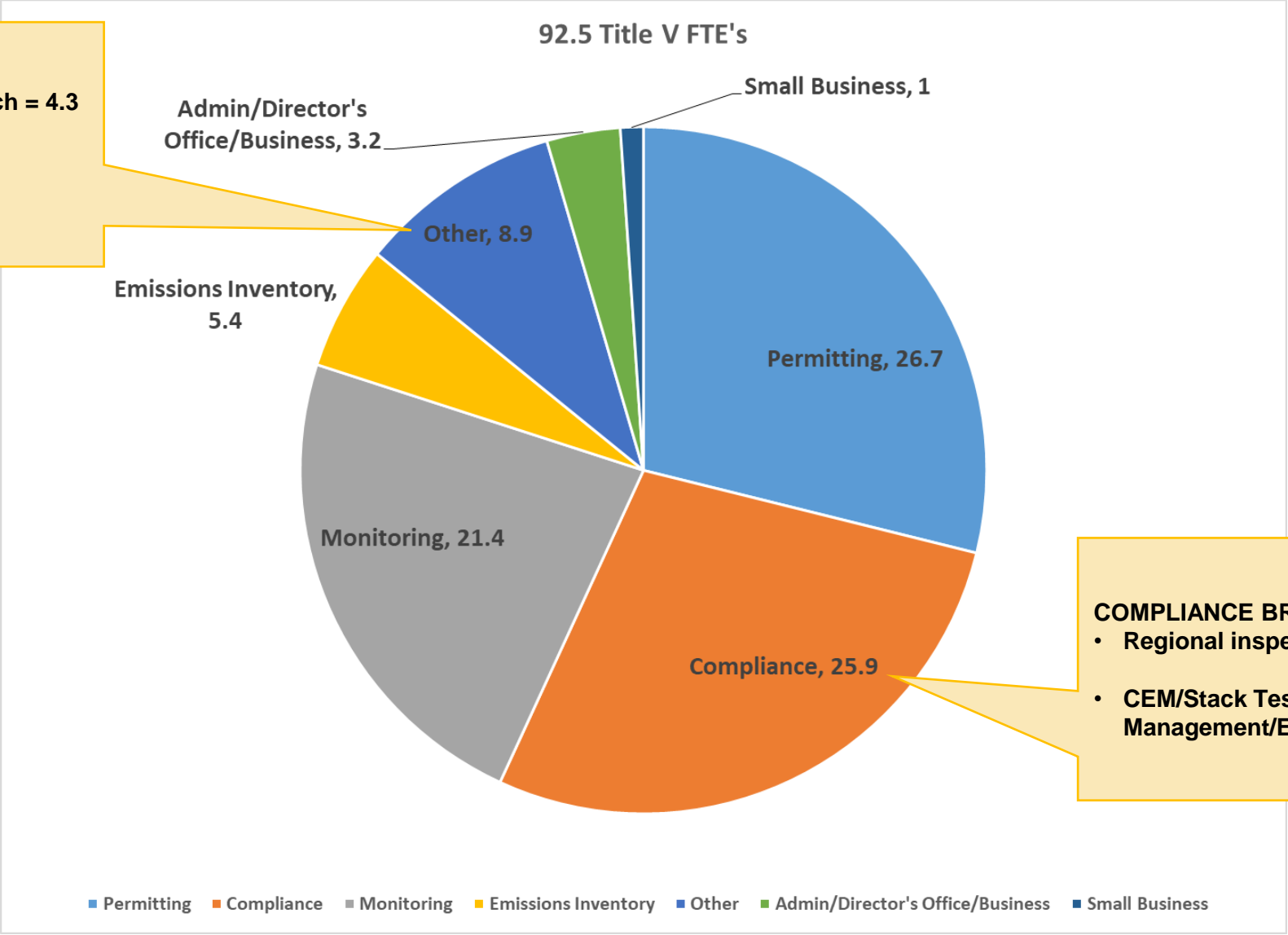


Title V Program Funding Gap

Current Title V Program Funding Requirements	
Current Staffing	\$7,852,710
Current Equipment/Operations	\$225,000
Total Annual TV Revenue Required	\$8,077,710
Receipts (FY 2018-2019)	\$6,404,395
Funding Gap	\$1,673,315

NC Title V FTE's per program area

OTHER BREAKDOWN
 Rules Development Branch = 4.3
 SIP Planning = 2.9
 Regional Other = 1.7



COMPLIANCE BREAKDOWN

- Regional inspectors = 16.5
- CEM/Stack Test/Data Management/Enforcement = 9.4

■ Permitting ■ Compliance ■ Monitoring ■ Emissions Inventory ■ Other ■ Admin/Director's Office/Business ■ Small Business



Salary Administration

Maintaining a strong workforce

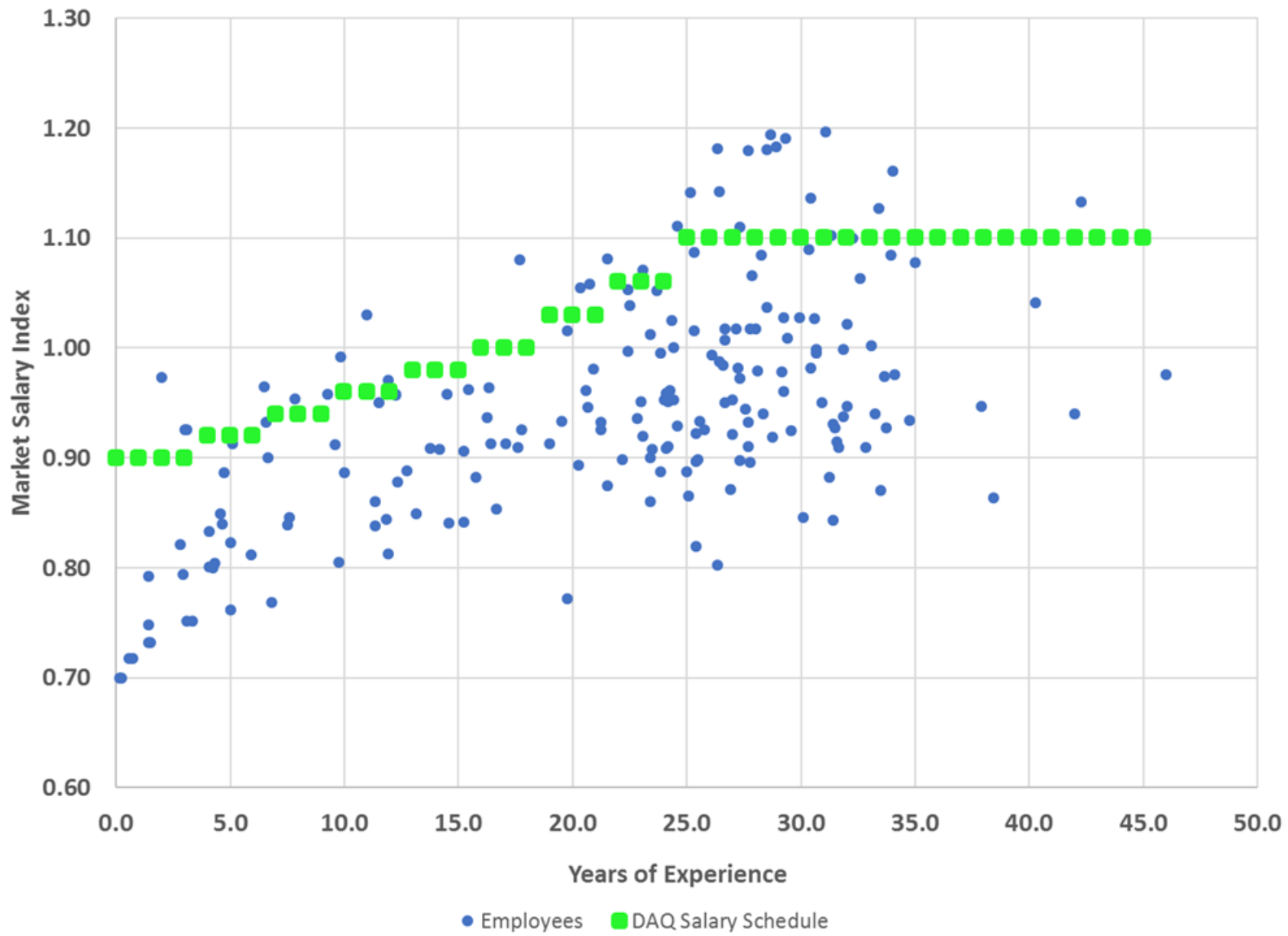
- **What can't get lost in the discussion...**
 - **DAQ's ability to create & maintain competitive salaries to retain talent**
 - **DAQ's ability to effectively recruit new employees**
 - **DAQ's silver tsunami**
 - **The "class of the 1990" Clean Air Act Amendments**



- **Establish a single, objective, and transparent salary schedule**
- **Reduces current or future inequities in comparable occupational groups.**
- **Removes pay bias against employees based on differences such as age, gender, race and ethnicity.**
- **Provides predictability for the employee and employer**

Years of relevant experience	Percent of market rate
0	0.90
1	0.90
2	0.90
3	0.90
4	0.92
5	0.92
6	0.92
7	0.94
8	0.94
9	0.94
10	0.96
11	0.96
12	0.96
13	0.98
14	0.98
15	0.98
16	1.00
17	1.00
18	1.00
19	1.03
20	1.03
21	1.03
22	1.06
23	1.06
24	1.06
25+	1.10





- To fully implement DAQ’s Salary Administration Policy, \$1,320,000 is needed to get folks to the “green line.”
- 44% or \$580,800 of that additional salary liability would be Title V \$\$



Title V Program Funding Gap

Projected Title V Program Funding Requirements	
Total Annual TV Revenue Required	\$8,077,710
Additional Salary Liability - DAQ Salary Administration Plan	\$580,800
Revised Total:	\$8,658,510
Receipts (FY 2018-2019)	\$6,404,395
Funding Gap	\$2,254,115

State Title V Fee Comparison

Southeastern Fee Comparison

All States/Locals use a variety of (1) "per ton" fees (actual vs allowable), (2) base annual fees (tiered, per category, single, minimum, or none), (3) application fees, (4) hourly review fees, and (5) several "a la carte" fee options for compliance, annual fees, or per application. ****NO TWO STATES APPEAR THE SAME****

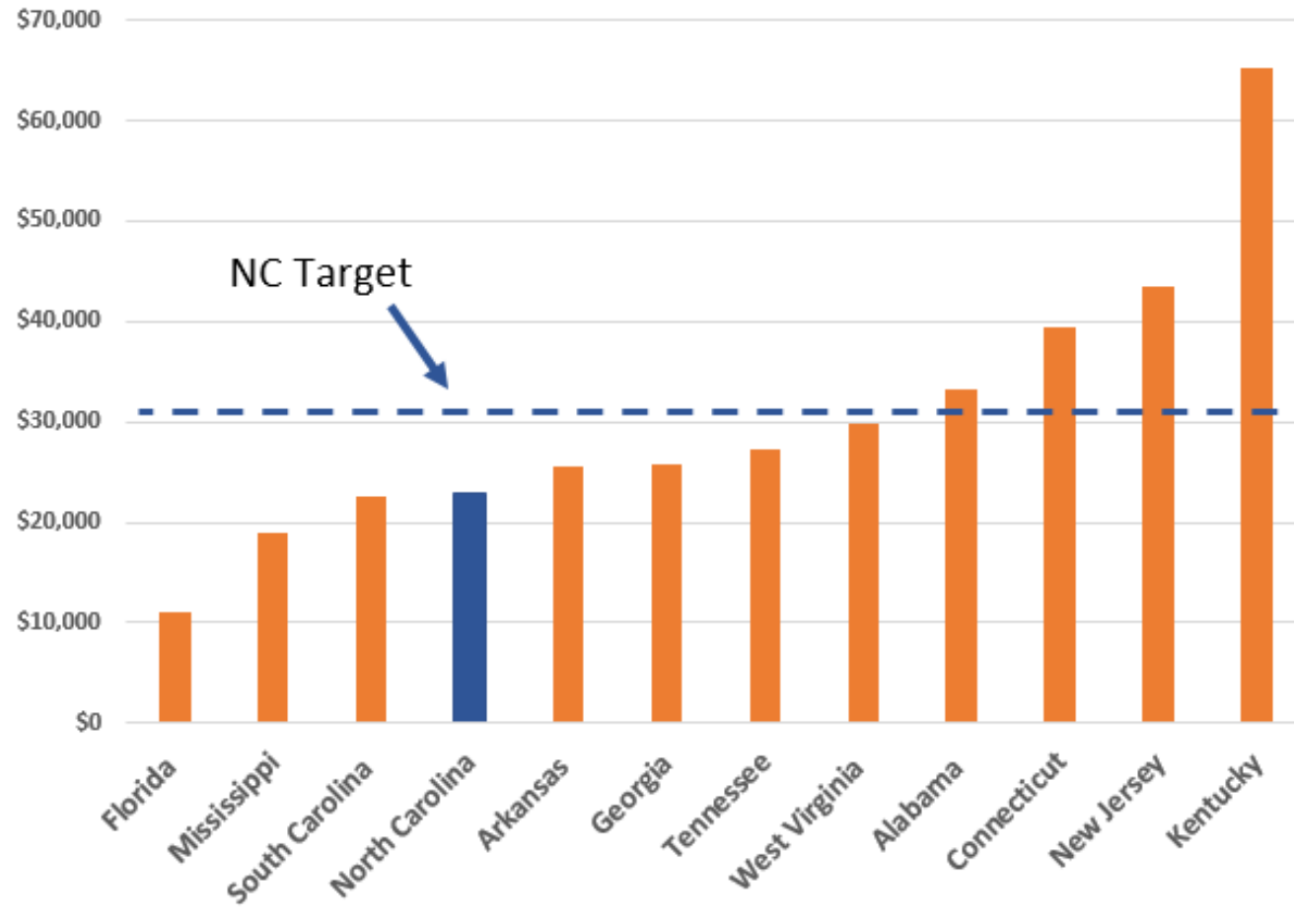
	Per Ton Fee \$/ton	Base or Minimum Annual Fee?	Permit Application Fees?
FL	\$30.00	No	Limited
NC	\$34.25	Yes	Yes
GA	\$35.50*	Yes	Yes
MS	\$47.00	No	No
SC	\$51.06	Yes	Expedited only
WV	\$52.23	Yes	Yes
TN	\$53.50*	Yes	Greenfield only
AL	\$69.00	No	Yes
VA	\$85.43	Yes	Yes
KY	\$98.61	No	No

* Different for EGUs / may use allowable

Current Title V Funding Level

How does NC compare?

Title V Funding per Facility



***NOTE: Neighboring states are seeking changes currently:**

TN*: Proposing to go to ~\$33,000/facility, then up to ~\$38,000/facility

SC:** Proposing to go to ~\$30,100/facility

*Calculated from 10/9/19 TN DEC presentation

**Calculated from 9/13/19 SC DHEC presentation

Option Summary

MOST COMMON OPTIONS (all in use by NC):

- Annual base fee (currently \$7,423 in NC)
(or a “minimum fee” for some states; various tiers/options used)
- Annual “per ton” emissions fee (currently \$34.25/ton in NC)
- Permit application fees (several in use by NC)

There are other options!

Summary

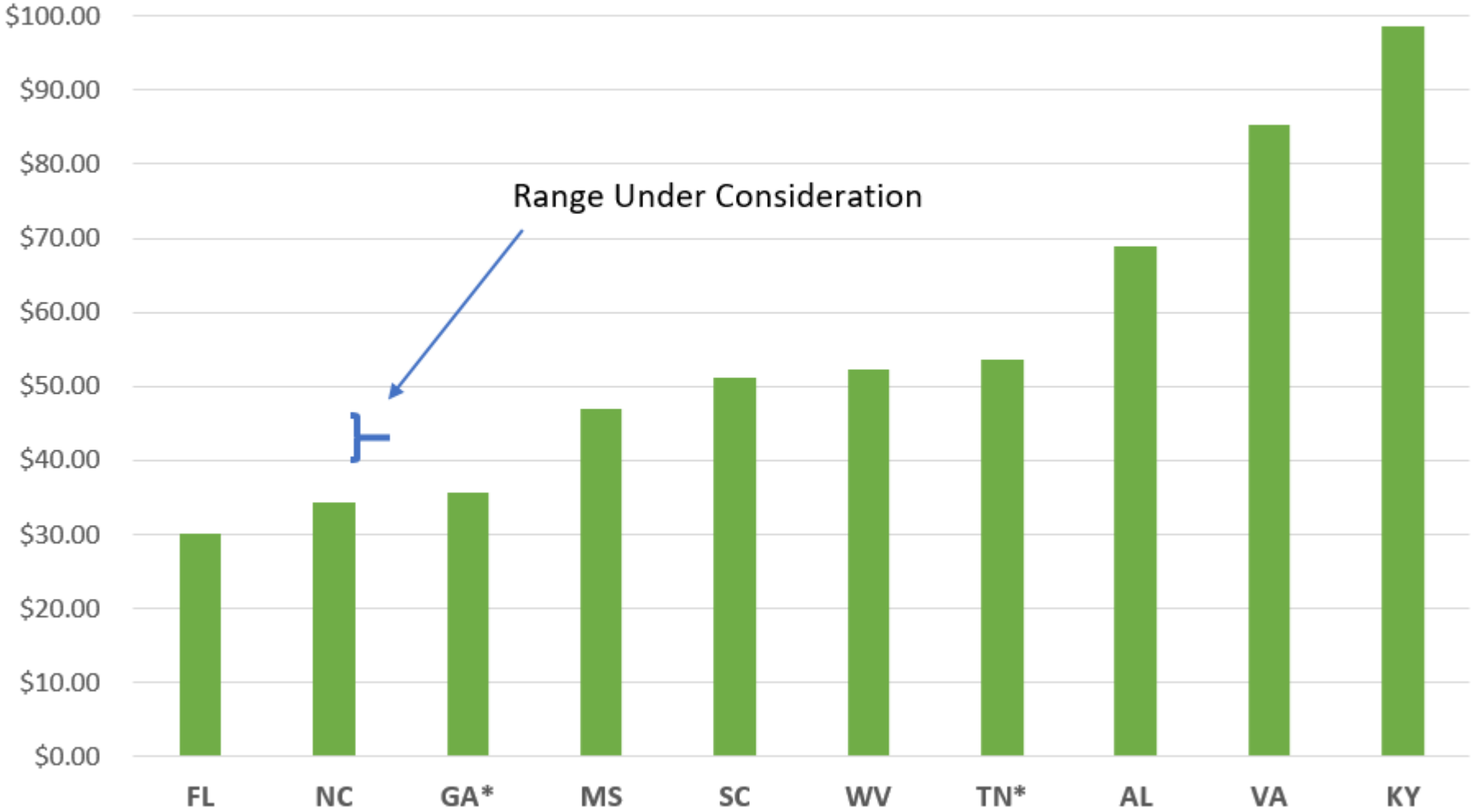
- **Charge per ton of Hazardous Air Pollutants (HAP)**
- **Add Complexity Fee [several options - per “category” (EGU, Steel Mills, etc.), number of Federal Programs, NSPS add-in]**
- **“A la carte” compliance fees (per ambient monitor, stack test observation, etc.)**
- **“A la carte” permitting fees (per modeling, public notice, NSPS applicability, MACT applicability, etc.)**
- **Hourly processing / review fees (not common in SE states)**
- **CPI adjustment (in use for NC)**
- **Other?**

Options For Consideration

One potential pathway for NC:

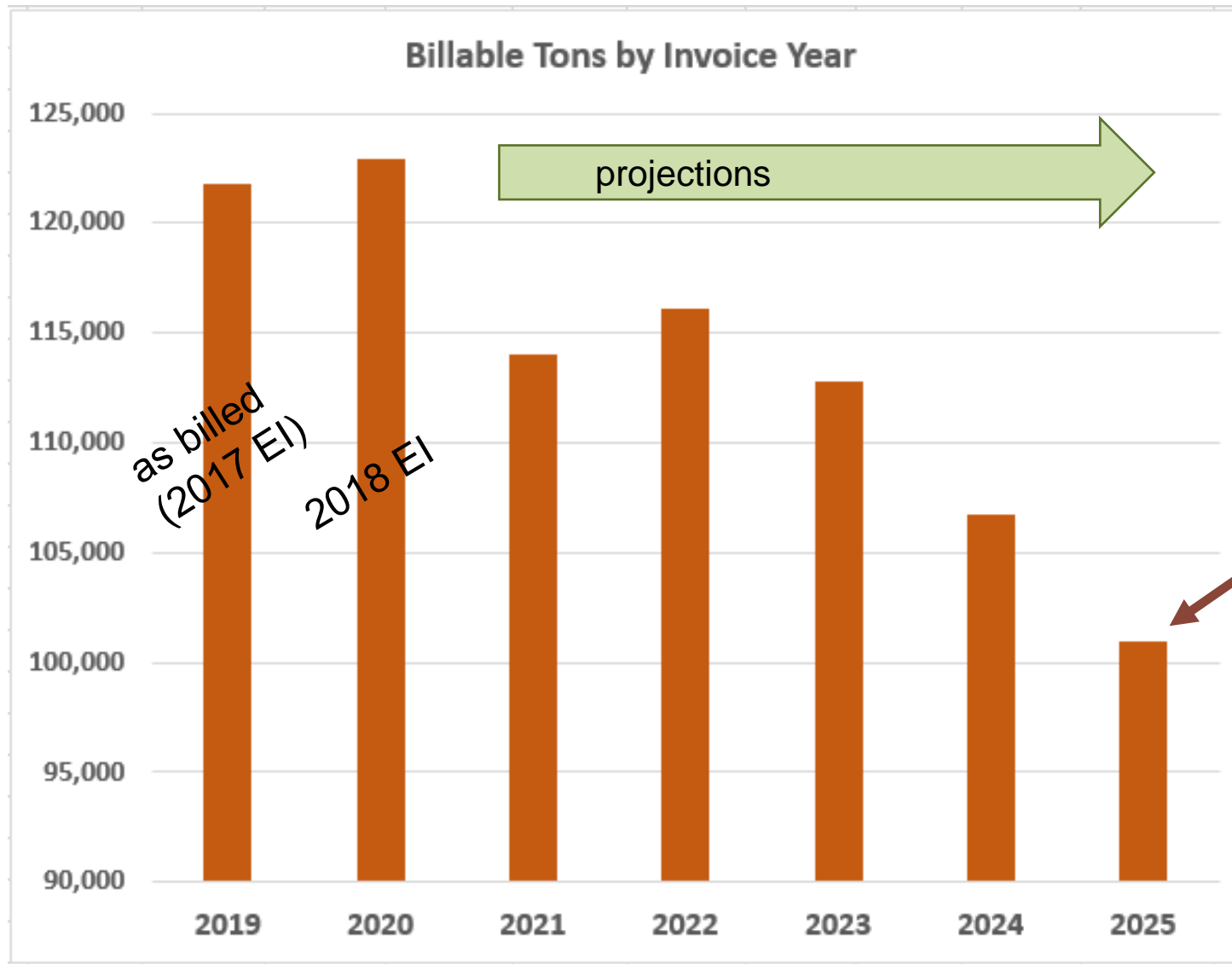
- Increase in “per ton” emissions fee
- Adjust base annual fee and address air permit complexity
 - add complexity “tiers” based on number of applicable Federal Programs (NSPS, MACT, GACT, 112r, PSD, NESHAP)
- Adjust some permit application fees:
 1. Increase minor modification fee from \$988
 2. Increase significant modification fee from \$988
(to better reflect work required and original rule)
 3. Eliminate ownership change fee?

\$/Ton Title V Emission Fee by State



* Different for EGUs / may use allowable



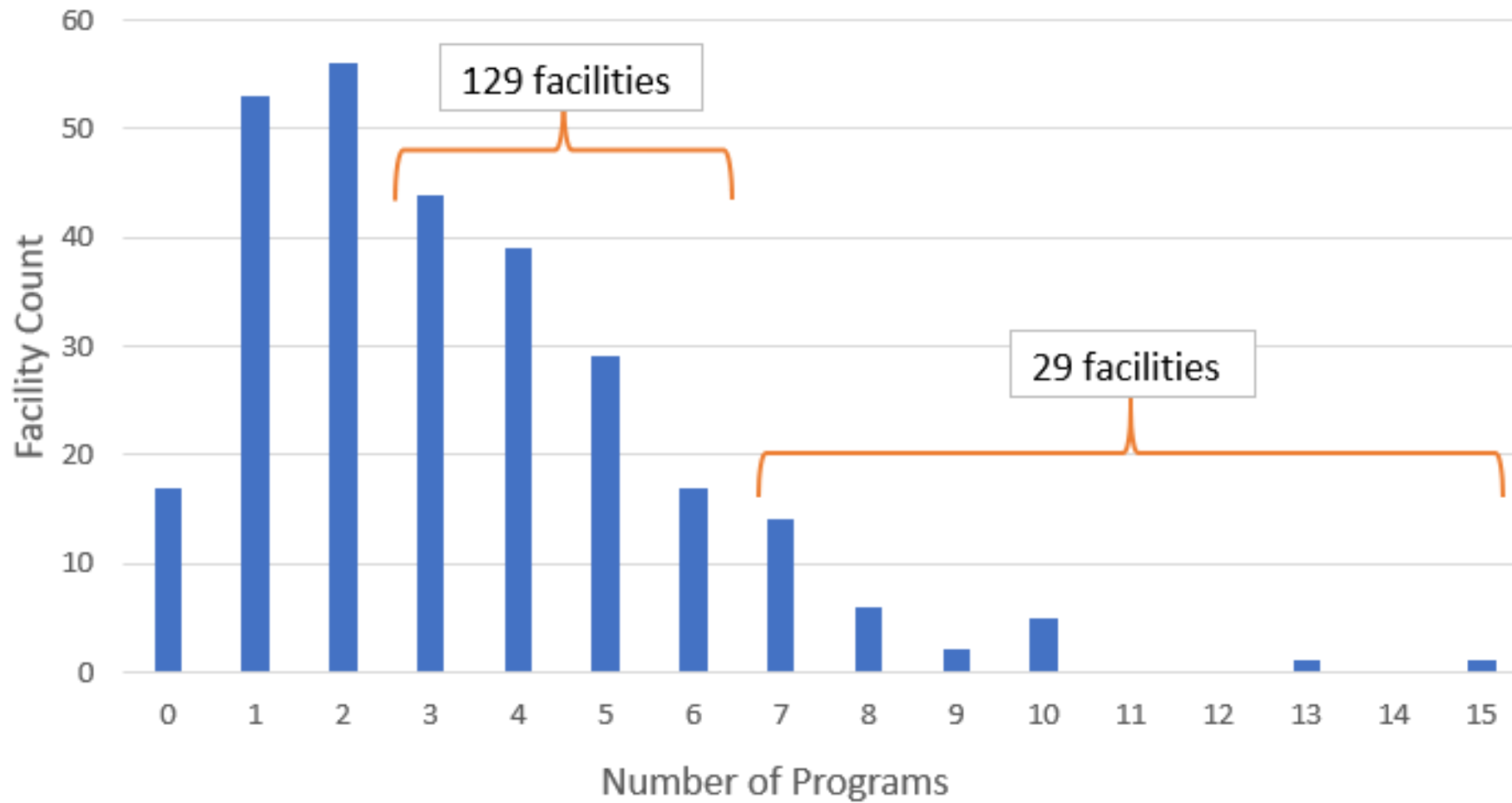


Complexity Issue - Example

	EXAMPLE #1	EXAMPLE #2
	Bakery	Chemical Plant
VOC Emissions	166 tons	17 tons
HAP Emissions	0.06 tons	9.87 tons
NSPS (New Source Performance Standards)	None	(4) NSPS Subparts Dc, Kb, VV, III
MACT (Maximum Achievable Control Technology)	None	(9) Subparts F, G, H, SS, U, OOO, DDDDD, ZZZZ, FFFF
112r (Accidental Release/Risk Management)	None	Yes - Formaldehyde and Ammonia
Air Pollution Control Devices	None	Yes - Packed bed scrubbers (water), Acid scrubbers, Boiler control, Fabric filtration, Catalytic oxidizers
Permit Applications last 10 years	4	15
2019 Annual Invoice	\$12,831	\$8,394

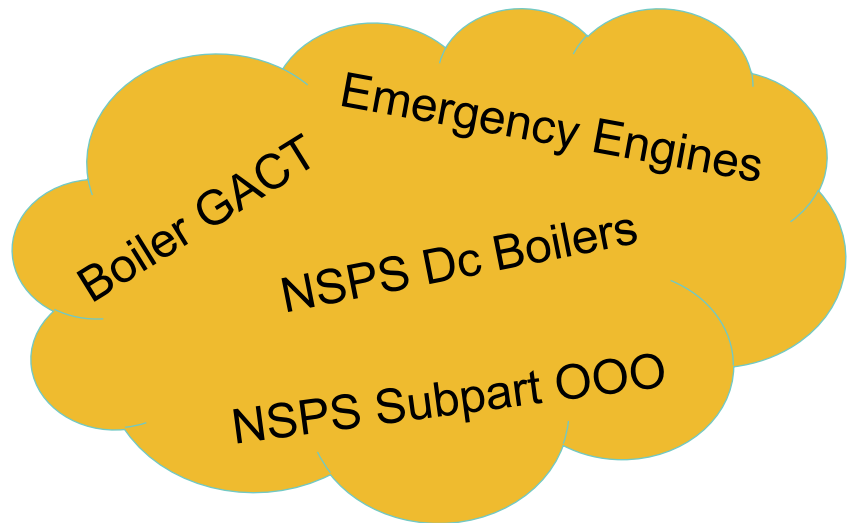
****Significantly less complex facility (Bakery) has 50% higher annual fee.***

Number of Facilities / Air Program Counts

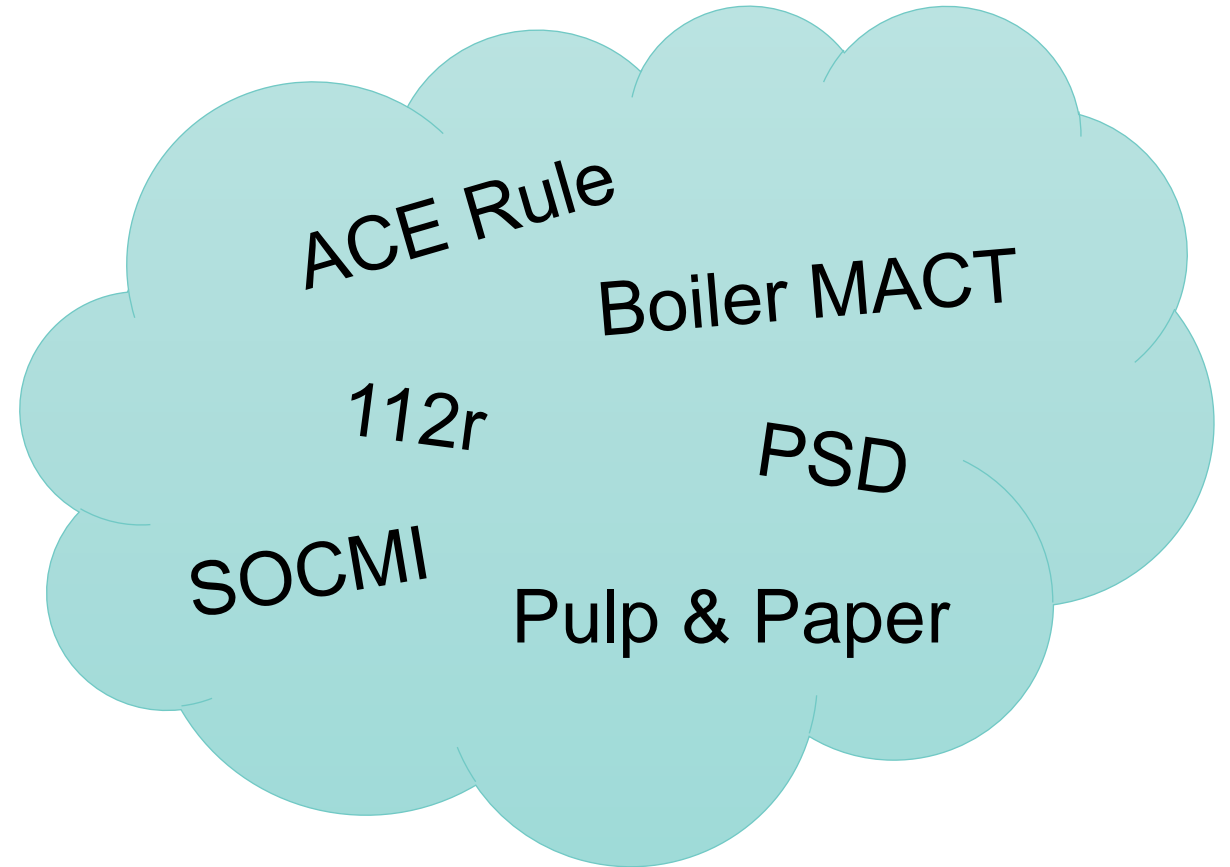


* Zero Counts are for those facilities with only Title V & SIP Programs

Discussion of Complexity Fee



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Current Permit Application Fees

PERMIT APPLICATION FEES (FOR CALENDAR YEAR 2020)

Facility Category	New or Modification	New **	2Q .0300, Minor or Significant Modification	Ownership Change
Title V		\$10,177*	\$988*	\$60
Title V (PSD or NSR/NAA)	\$15,406*			\$60
Title V (PSD and NSR/NAA)	\$29,965*			\$60
Synthetic Minor	\$400			\$50
Small	\$50			\$25
General	50 % of the otherwise applicable fee			
General TV ACI ^a	10 % of the otherwise applicable fee			

^a Applies to new air curtain incinerators (ACI) only

State	Minor Mod Fee
FL	\$0
MS	\$0
SC	\$0
TN	\$0
KY	\$0
NC	\$988
WV	\$1,000+
AL	\$1,465+
GA	\$2,000
VA	\$4,400

TV Permit Fee Stakeholder Process

Stakeholder group was formed

Goals:

- DAQ present the data
 - Allow group to develop and explore various options/solutions
 - Make a recommendation that DAQ could take to the AQC/EMC for initiation of the rule-making process
 - Keep it simple
 - Do this as infrequently as possible
- DAQ offered a “blank sheet of paper” if desired... but ultimately provided a funding “model” for the group to use/adjust/edit as they explored various options.

TV Permit Fee Stakeholder Workgroup

- **Jennifer Adams, Corning**
- **Mark Hawes, Shurtape**
- **Daryl Grassick/Jeff Cook, ECS Limited**
- **Preston Howard, NCMA**
- **Fern Paterson, Parker-Poe**
- **Jamie Cole/Alfre Wimberly, NC Conservation Network**
- **Cassie Gavin, Sierra Club**
- **Khalid Alnahdy, Nutrien/PCS**
- **Mark McIntire, Duke Energy**

TV Permit Fee Stakeholder Process

4 meetings in May/June

- **Active participation**
- **Lots of questions... follow up... data sharing...**
- **5-yr projections (make sure we capture the decreasing emissions)**

TV Permit Fee Stakeholder Process

Key Tenants of Stakeholder Group proposal:

- Rely less on tonnage fee moving forward
- Link fees more to workload (complexity)
- Phase in over 3 years the amount needed for DAQ's salary administration plan
- DAQ to conduct an Accountability Report in next 2 years to include a new workload analysis and staffing/funding needs
- DAQ to manage cash flow in order to address Legislative Increases

TV Permit Fee Stakeholder Process

Proposal

Projections with annual CPI & emissions adjustments

	<u>Current 2020</u>	<u>2021</u>
Annual Fee	\$ 7,423.00	\$ 10,000.00
Tonnage Fee	\$ 34.25	\$ 40.00
Minor Modification	\$ 988.00	\$ 3,000.00
Significant Modification	\$ 988.00	\$ 7,000.00
Complexity fee (3-6)	N/A	\$ 2,500.00
Complexity fee (>7)	N/A	\$ 7,500.00
Total Fees Received	\$ 6,517,948.18	\$ 8,419,543.90

	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>
	\$ 10,154.00	\$ 10,310.00	\$ 10,469.00	\$ 10,630.00
	\$ 40.62	\$ 41.24	\$ 41.88	\$ 42.52
	\$ 3,046.00	\$ 3,093.00	\$ 3,141.00	\$ 3,189.00
	\$ 7,108.00	\$ 7,217.00	\$ 7,328.00	\$ 7,441.00
	\$ 2,539.00	\$ 2,578.00	\$ 2,617.00	\$ 2,658.00
	\$ 7,616.00	\$ 7,733.00	\$ 7,852.00	\$ 7,973.00
	\$ 8,633,361.22	\$ 8,629,805.67	\$ 8,509,602.47	\$ 8,392,749.97

Schedule

- **July 2020 – Rule Concept to AQC**
- **July 2020 – Outreach to Regulated Community**
- **September 2020 – Rule Text and Fiscal Note to AQC**
- **September/November 2020 – Request to proceed to public hearing**

**No later than Jan/March/May 2021 – Final EMC Action
Rule effective ~Spring 2021**

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Department of Environmental Quality

