



Department of
**Environment &
Conservation**

non-Title V Fee Stakeholder Kickoff Meeting

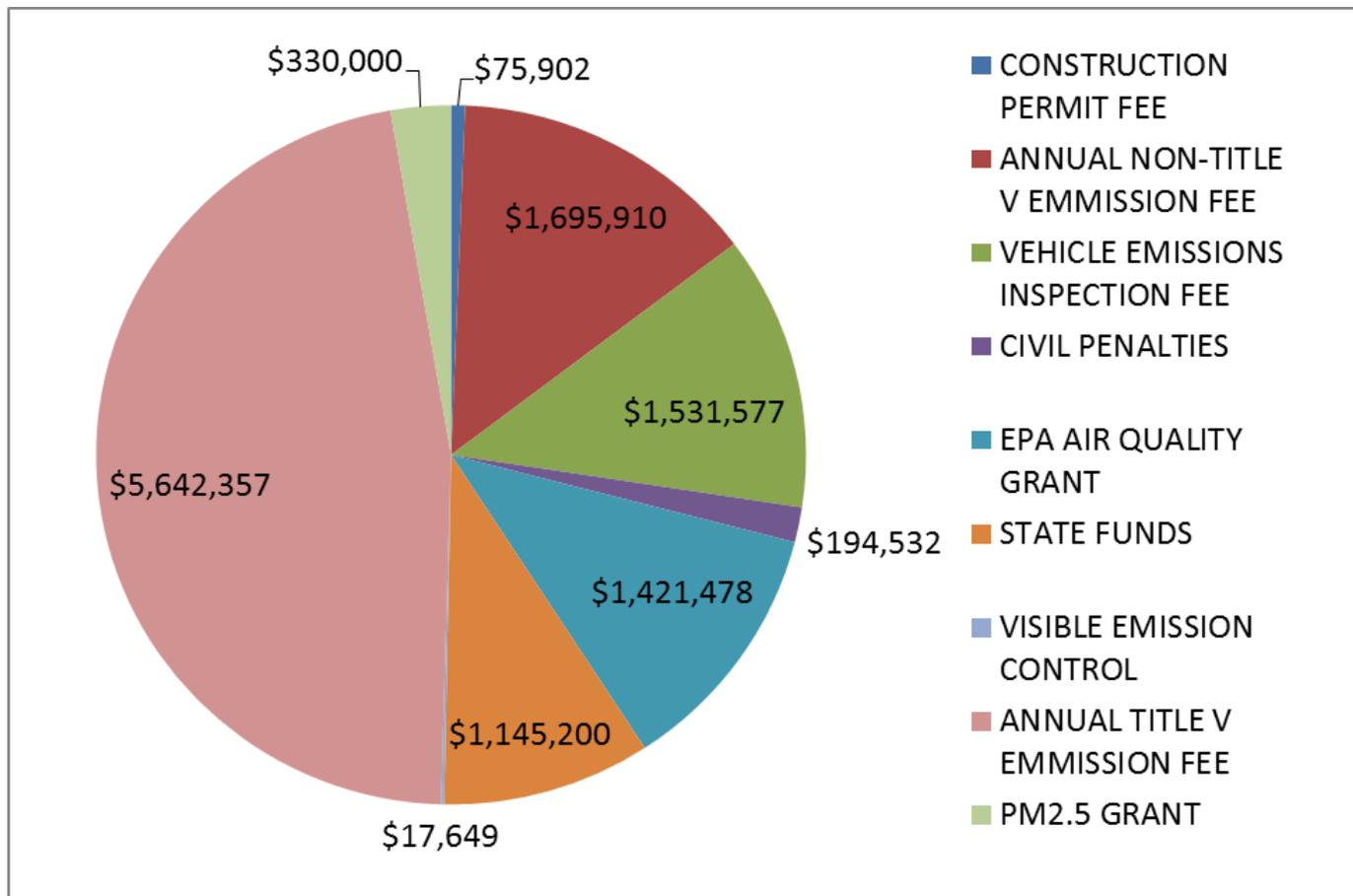
April 18th & 26th, 2018

Topics Covered

- How is the Division of Air Pollution Control (DAPC) funded?
- What statutory requirements apply to air quality fees?
- What regulatory requirements apply to air quality fees?
- What are non-Title V Fees?
- Historical and Projected Revenue
- Historical and Projected Expenses
- Options for Changing 2020 Fees
- Timeline
- Website

How is DAPC Funded?

Average of FY2015 through FY2017



Note: This chart is a simplified representation of APC funding. Actual budgetary and accounting information is much more complicated. Does not include “pass-through” funds or one-time funding. Does not include payments to counties as part of I/M program.

What Statutory Requirements Apply to Air Quality Fees?

Tennessee Environmental Protection Fund Act

TN Code § 68-203-103 – Fees

(a) (1) In order to facilitate the proper administration of each statute listed in § 68-203-101(b), the **department of environment and conservation shall charge fees** for the various services and functions it performs under each of those statutes, including, but not limited to, **permit processing fees, permit maintenance fees**, license fees, registration fees, plans review fees, facility inspection fees and **emission fees**.

What Statutory Requirements Apply to Air Quality Fees?

Tennessee Environmental Protection Fund Act

TN Code § 68-203-103 – Fees

(a) (2) The **level of these fees** shall be determined after careful consideration of the **direct** and **indirect costs** incurred by the department in performing its various functions and services under each of the statutes listed in § 68-203-101(b).

What Statutory Requirements Apply to Air Quality Fees?

Tennessee Environmental Protection Fund Act

TN Code § 68-203-103 – Fees

(a)(3) It is the intention of the general assembly that the **fees shall provide funding for additional staff** of the environmental regulatory programs and an **improvement of the salaries and benefits** of the existing staff of the environmental regulatory programs, to continue **to improve performance in carrying out its duties.**

What Statutory Requirements Apply to Air Quality Fees?

Tennessee Environmental Protection Fund Act

TN Code § 68-203-103 – Fees

(a)(3) (continued) Prior to promulgating any fee increase, the authorities listed in subsection (b) shall review the basis for the fee increase and **make a determination that the fee increase is warranted**. The **factors** in the determinations shall include, if relevant: **staffing needs, ability to attract and retain quality staff, feasible cost containment measures, comparisons with salaries paid by other governments and the private sector, levels of federal grants and state appropriations, and the ability of the program to maintain or improve its performance** in carrying out its duties.

What regulatory requirements apply to air quality fees?

1200-03-26-.02 CONSTRUCTION AND ANNUAL EMISSION FEES

(1) Purpose

- (a) It is the purpose of this rule to establish construction fees, annual emission fees, and permit review fees for sources subject to permitting pursuant to Division 1200-03 sufficient to **supplement existing state and federal funding** that covers **reasonable costs (direct and indirect)** associated with the **development, processing, and administration** of the **air pollution control program**. This will provide for better quality evaluation of the impact of air emissions on the citizens of Tennessee, and timely permitting services for sources subject to permitting requirements.

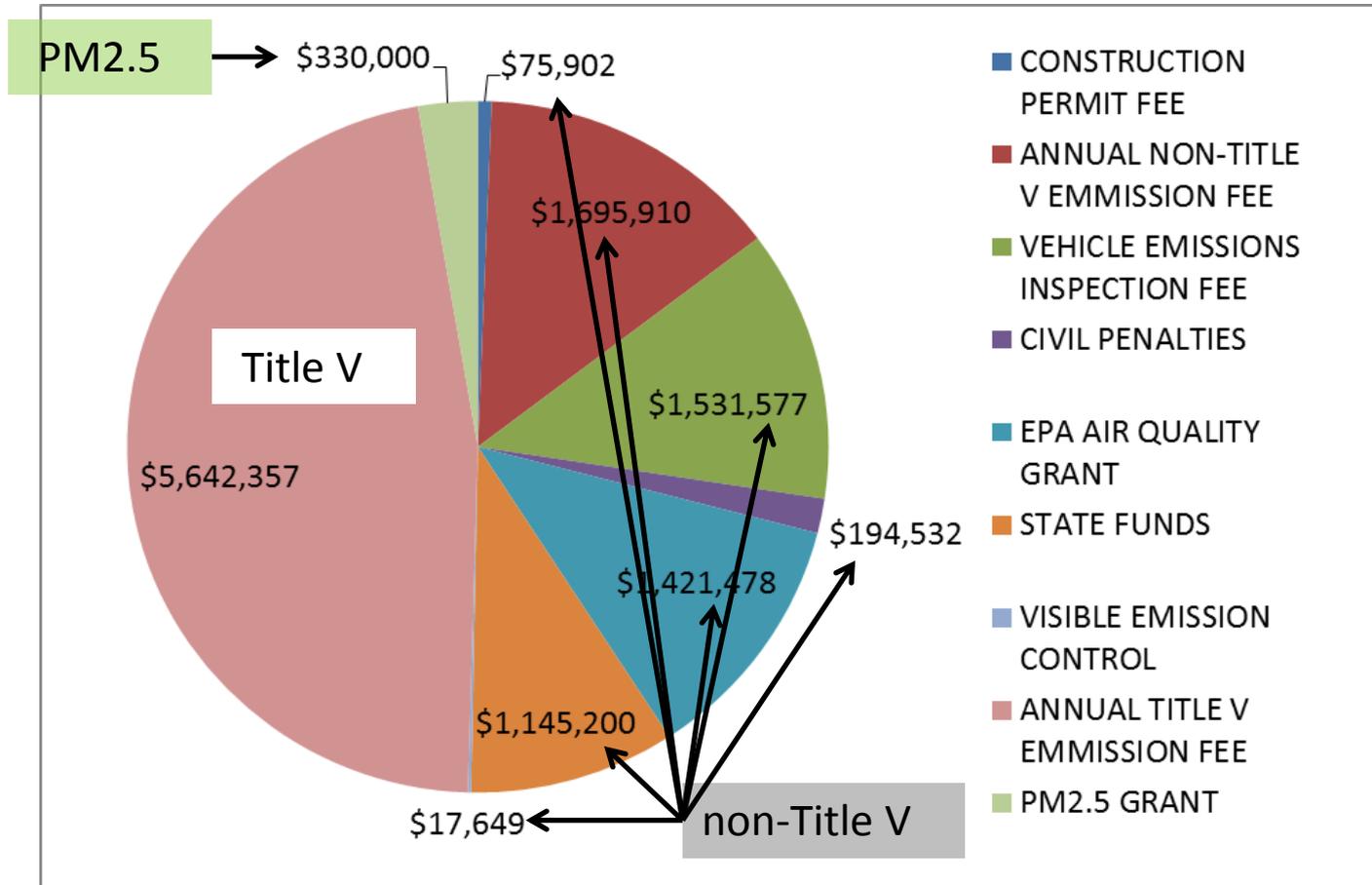
What regulatory requirements apply to air quality fees?

1200-03-26-.02 CONSTRUCTION AND ANNUAL EMISSION FEES

(1) Purpose

(b) Such costs shall **include, but not be limited to**, costs associated with **review of applications** and **reports**, issuance of required **permits** and associated **inspections** of sources, **unit observation**, review and evaluation of **monitoring results (stack and/or ambient)**, **modeling**, and costs associated with any necessary **enforcement** actions (excluding penalties assessed).

What are non-Title V Fees?



Note: This chart is a simplified representation of APC funding. Actual budgetary and accounting information is much more complicated. Does not include “pass-through” funds or one-time funding. Does not include payments to counties as part of I/M program.

Annual non-Title V Emission Fees

- \$18.75/ton of Allowable Emissions
- Conditional Major Sources also pay annual “permit review fee”

Total Allowable Tons Per Year	Review Fee	# of Facilities that Pay this Rate
0-50 Tons/Year	\$250	38
50.1 – 100 Tons/Year	\$500	77
100.1 – 250 Tons/Year	\$1000	152
250.1 and up	\$2000	48

- Payment due Annually based on County in which Facility is Located
- **Statutory Limit on \$/ton fee = \$18.75**
- Average amount collected past three years = \$1,695,910

Construction Permit Fees

Anticipated Maximum Emission Rate	Permit Fee	Avg. # that pay this rate
Less than 10 Tons/Year	\$100	172
10 to < 100 Tons/Year	\$500	97
100 to < 250 Tons/Year	\$1000	10
250 to < 500 Tons/Year	\$2000	1
500 to < 1000 Tons/Year	\$3000	0
1000 to < 5000 Tons/Year	\$4000	0
5000 and Greater Tons/Year	\$5000	0

- Existing Title V Facilities* exempt from Construction Permit Fees
- Payment due with Application
- Statutory Limit = \$7500
- Average Amount Collected past three years = \$75,902
 - Includes modification fees (see next slide)

*Allowable non-HAP Emissions > 100 tons/year per Pollutant; Allowable HAP Emissions > 10 tons single HAP/25 tons total HAP

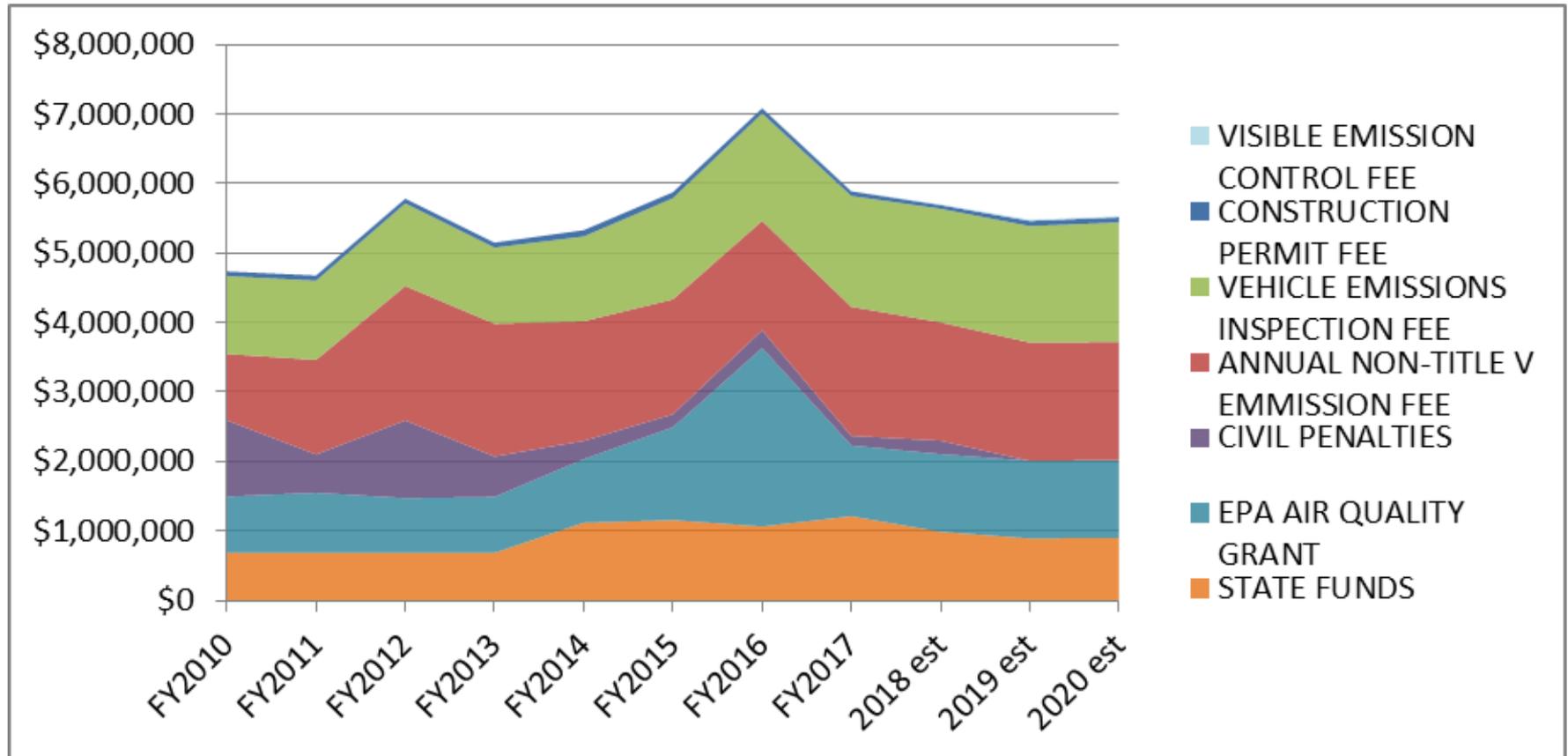
Construction Permit Fees – Permit Modifications

- Revisions to a permit which will result in an increase in emissions
 - 50% of Construction Permit Fees
 - Not to Exceed \$500
 - Payment due with Application
- Change to a source that will require a new construction permit
 - 50% of Construction Permit Fees
 - Not to Exceed \$500
 - Payment due with Application

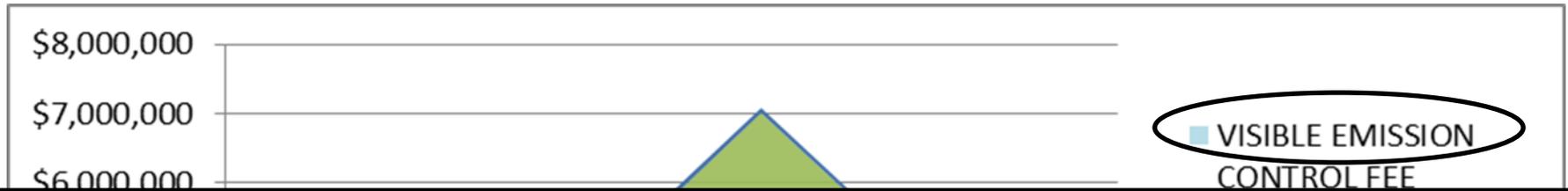
Visible Emissions Evaluation Course (Smoke School) Fees

- Current Fees
 - Initial Certification Tennessee Applicant - \$125.00
 - Initial Certification Out-of-State Applicant - \$175.00
 - Recertification Tennessee Applicant - \$95.00
 - Recertification Out-of-State Applicant - \$125.00
- Payment due when Registering for Smoke School (held twice per year per EPA method 9 certification requirements)
- Average amount collected past three years = \$17,649
- Private Firms
 - \$240 to \$415 for initial certification (lecture and field certification)
 - \$200 to \$265 for recertification (field certification)

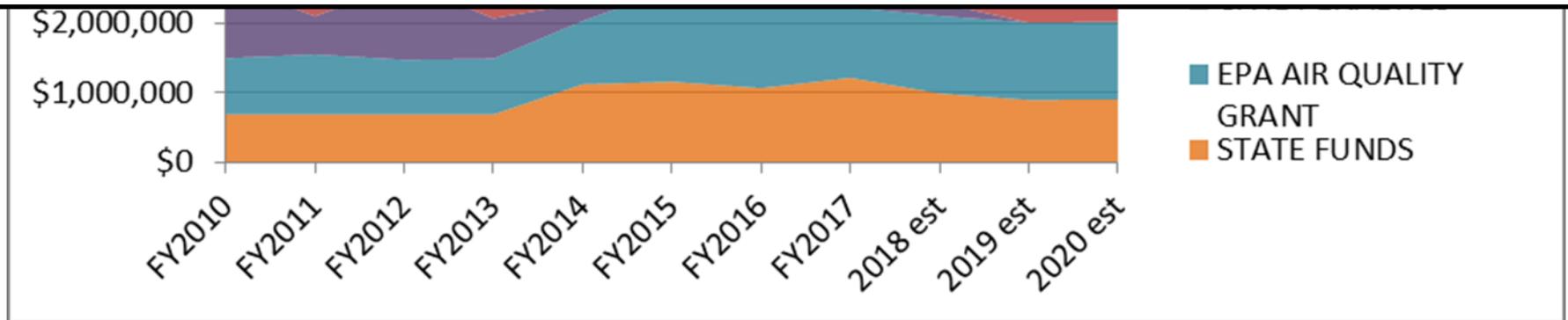
Historical and Projected non-Title V Income



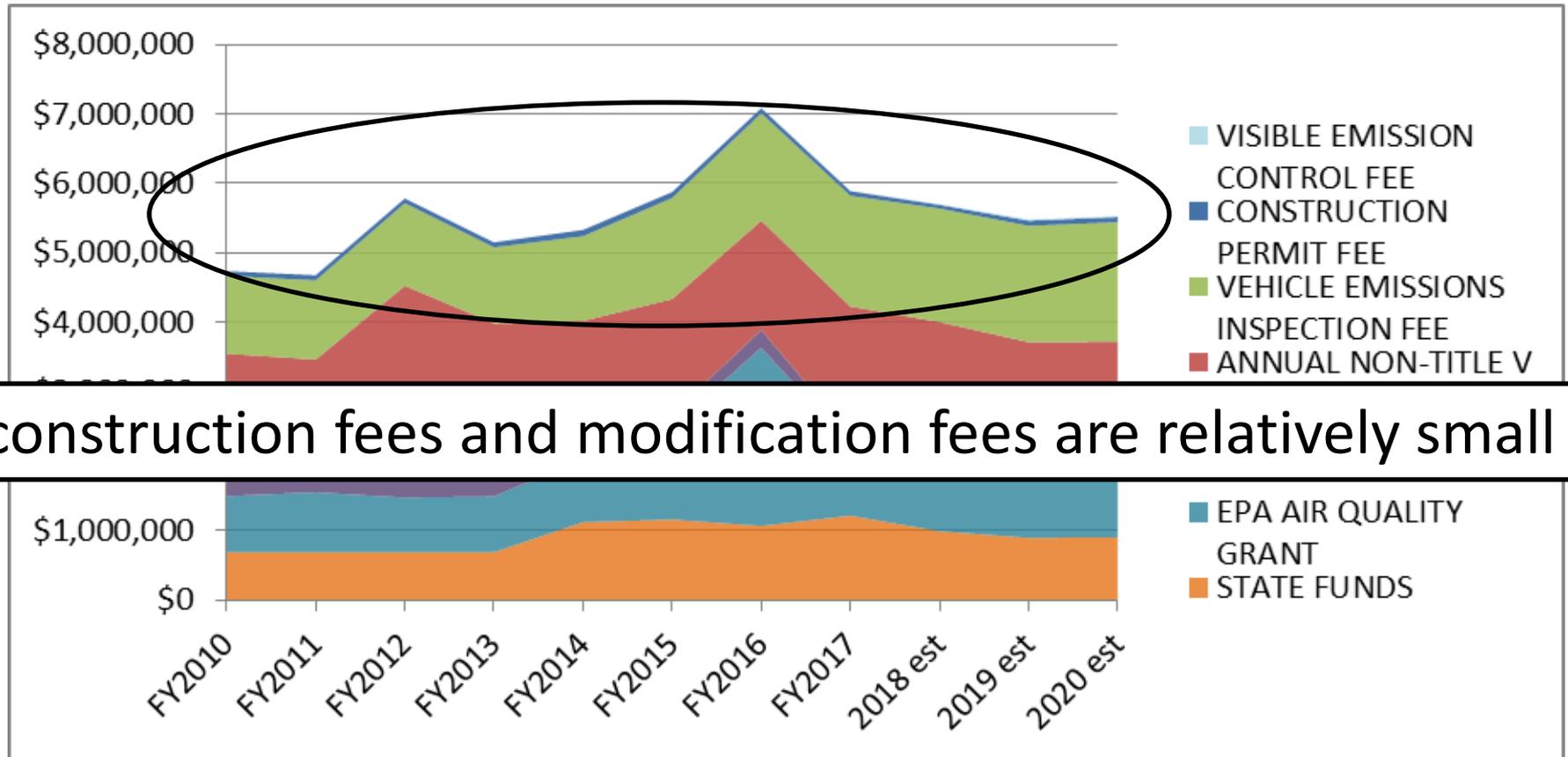
Historical and Projected non-Title V Income



visible emission control fee was considered Title V fee until mid FY2018 fees are very small in comparison to other funding sources

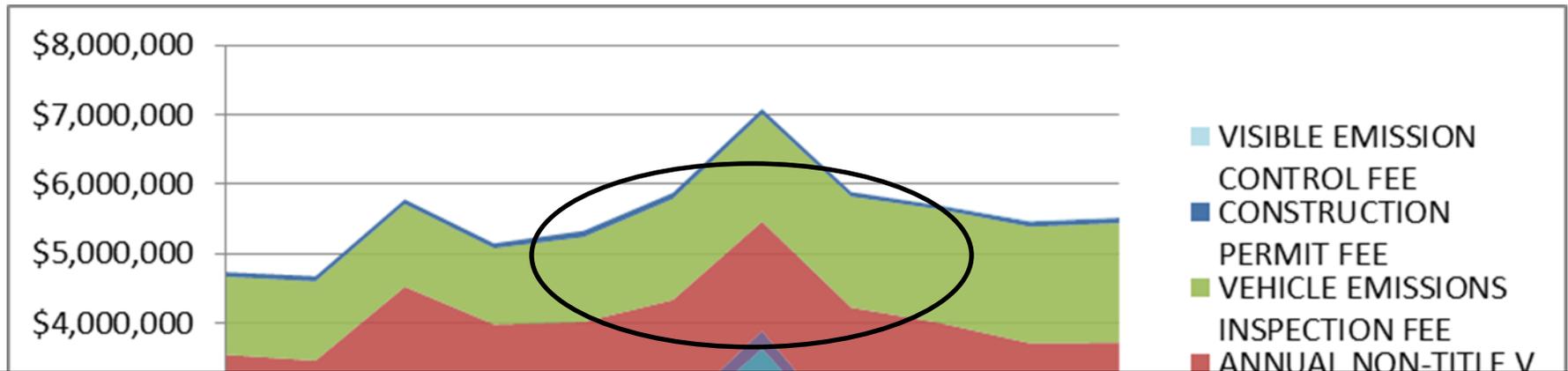


Historical and Projected non-Title V Income



construction fees and modification fees are relatively small

Historical and Projected non-Title V Income

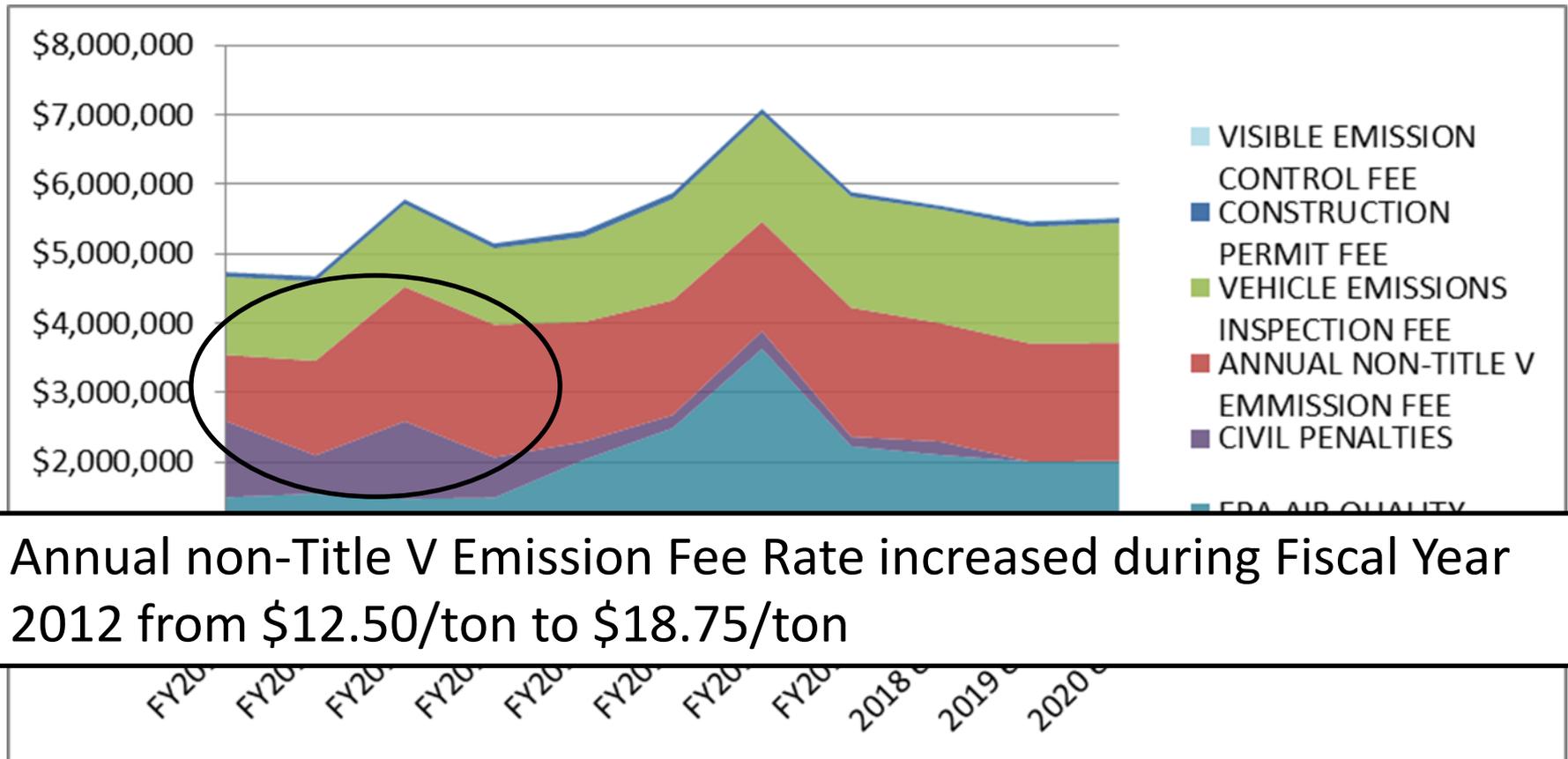


new Vehicle Emission Testing contract negotiated in FY2015:

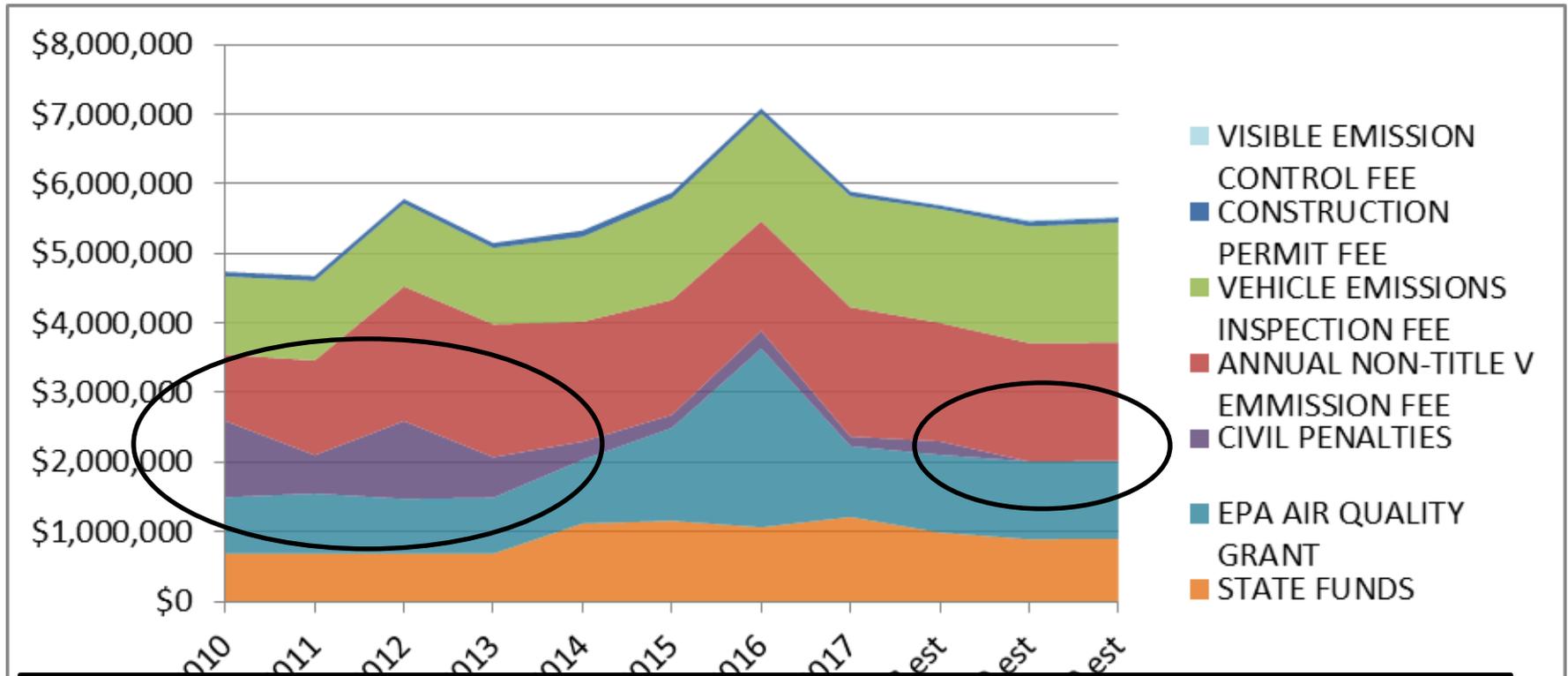
- motorist fee lowered from \$10 to \$9
- payments to counties increased from \$0.25/test to \$1.00/test
- payment to APC increased from \$1.55/test to \$1.80/test

amount of fees collected increase as number of vehicles tested increases

Historical and Projected non-Title V Income

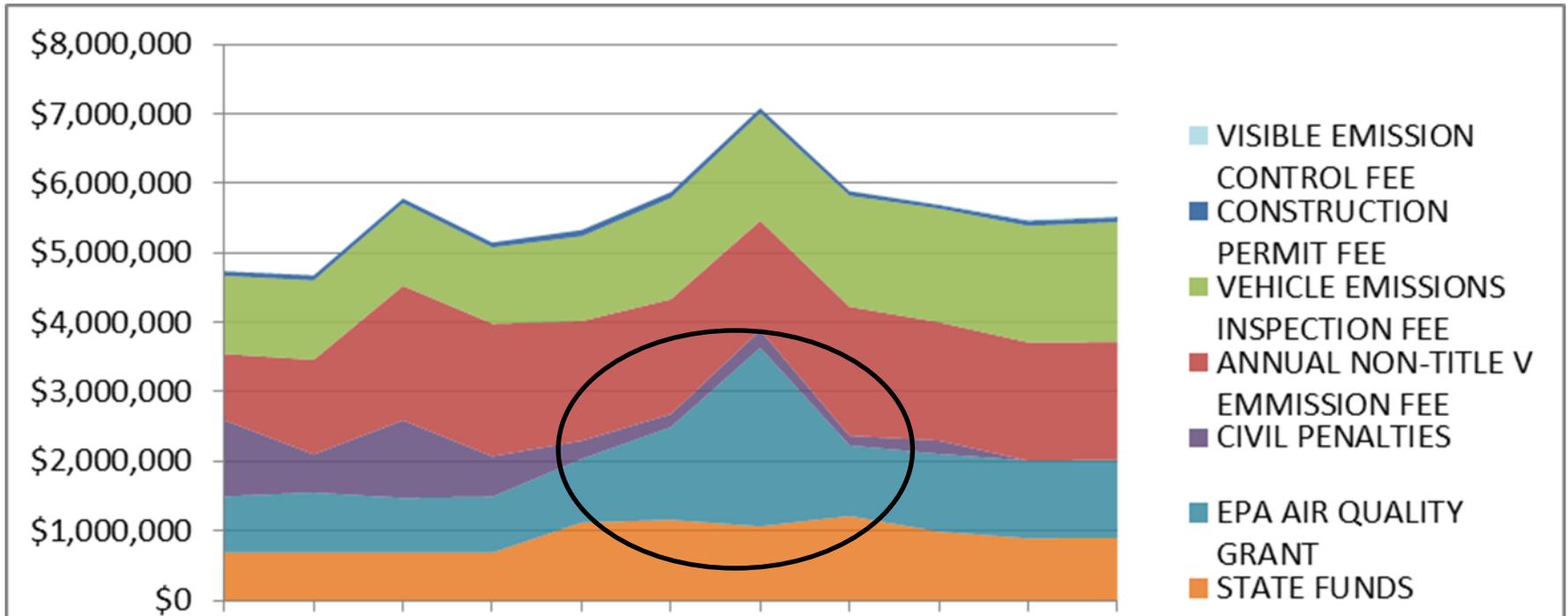


Historical and Projected non-Title V Income



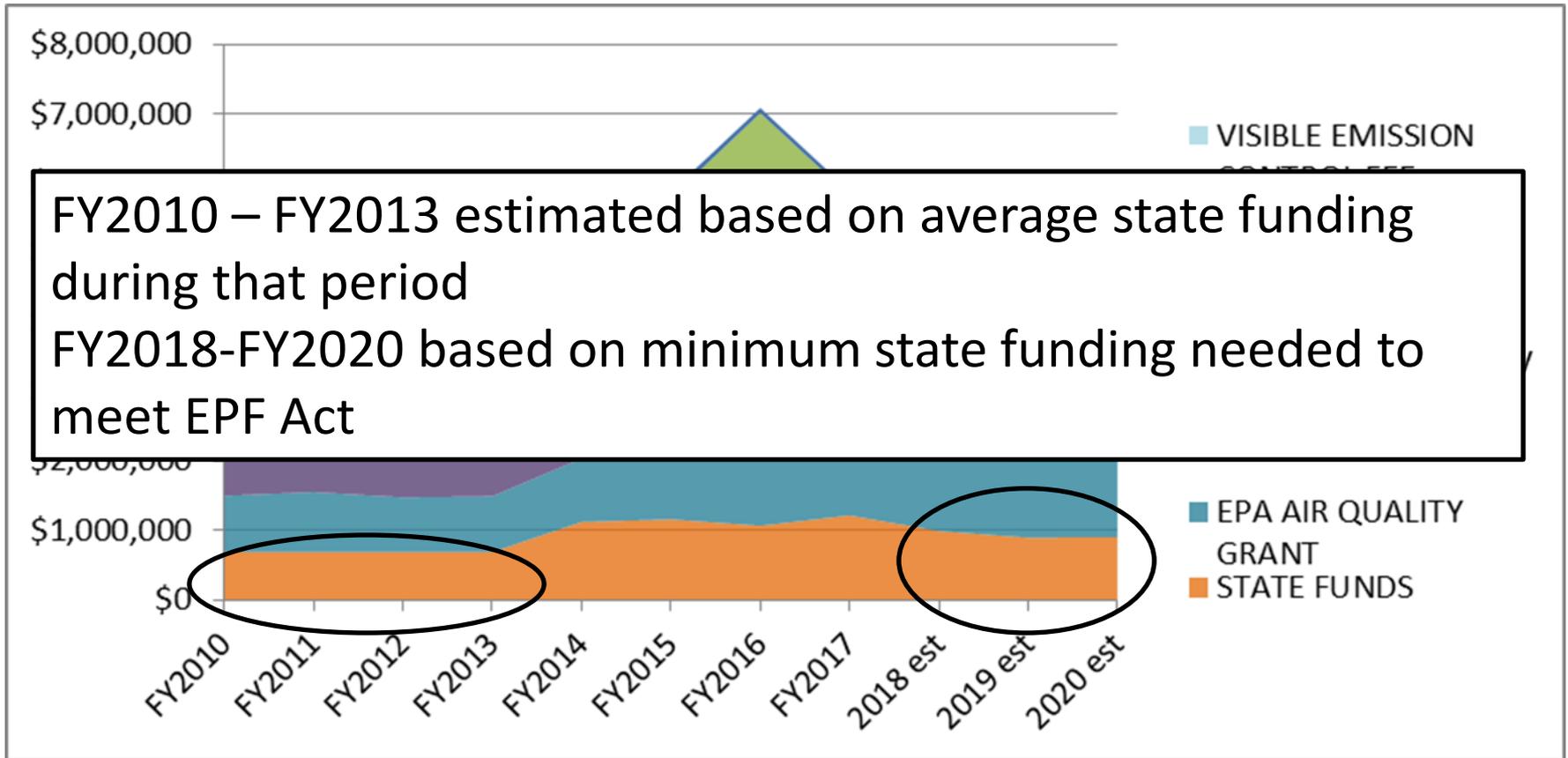
some large civil penalties in FY2010 – FY2012
civil penalties not projected

Historical and Projected non-Title V Income

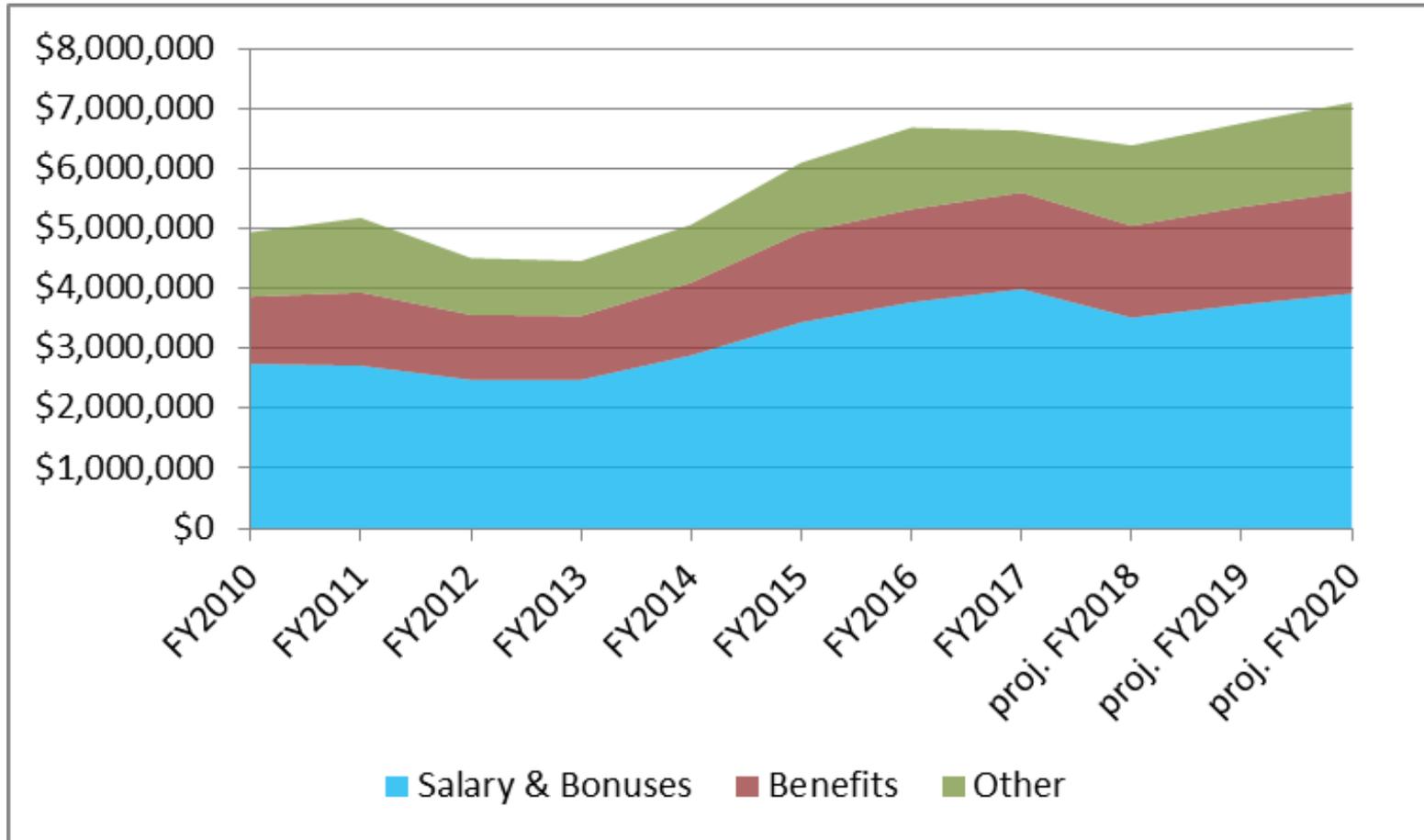


amount of federal grant increased in 2015
double award in 2016

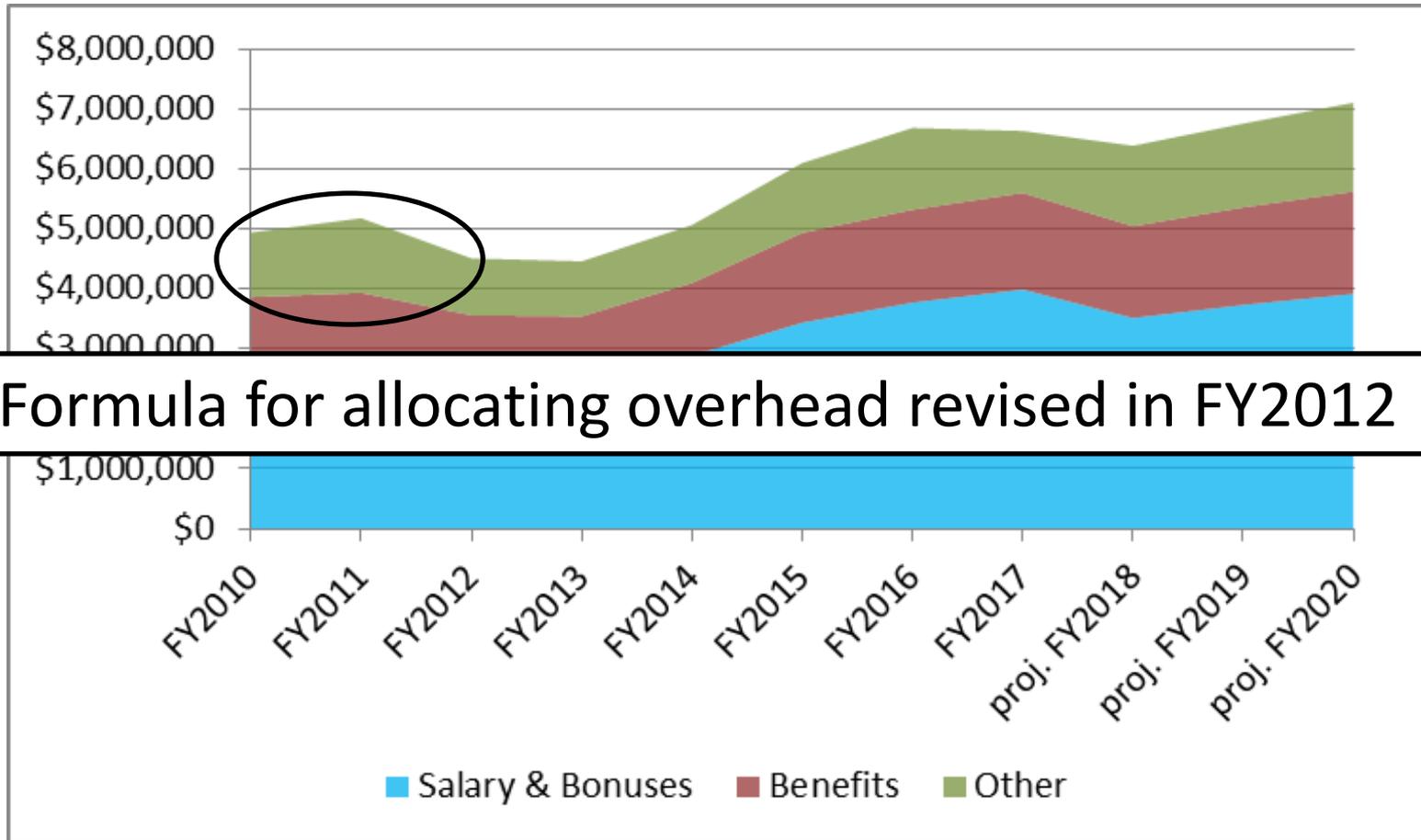
Historical and Projected non-Title V Income



Historical and Projected non-Title V Expenses

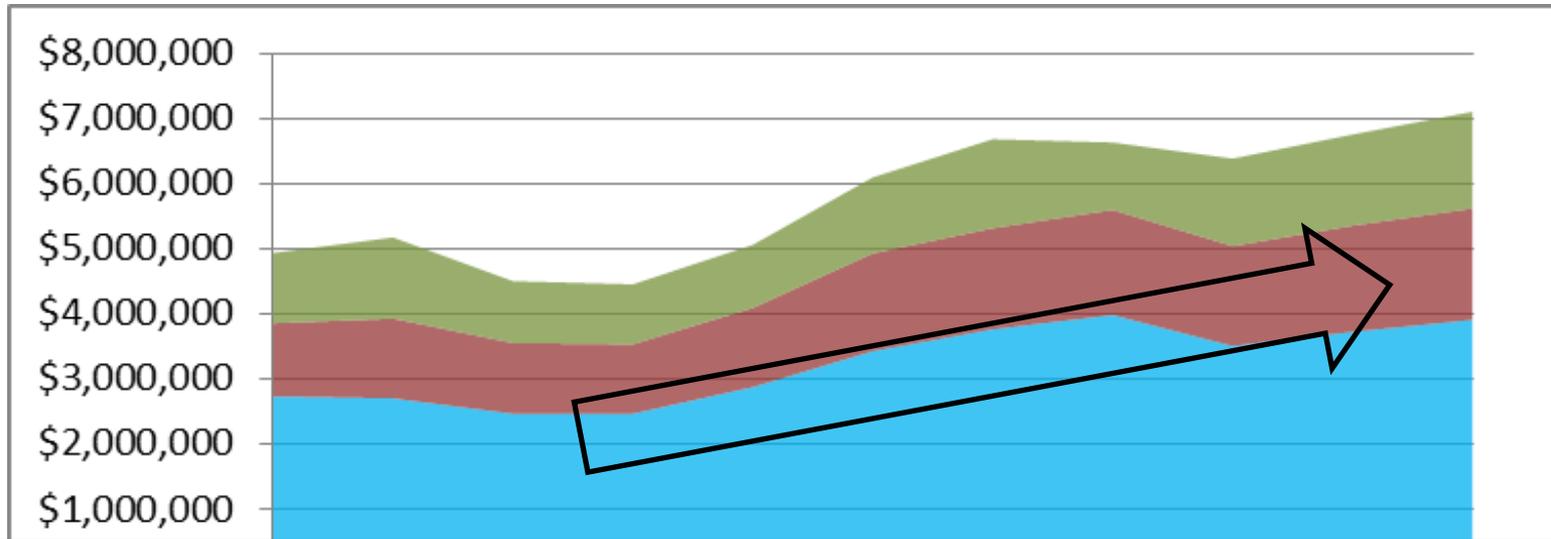


Historical and Projected non-Title V Expenses



Formula for allocating overhead revised in FY2012

Historical and Projected non-Title V Expenses

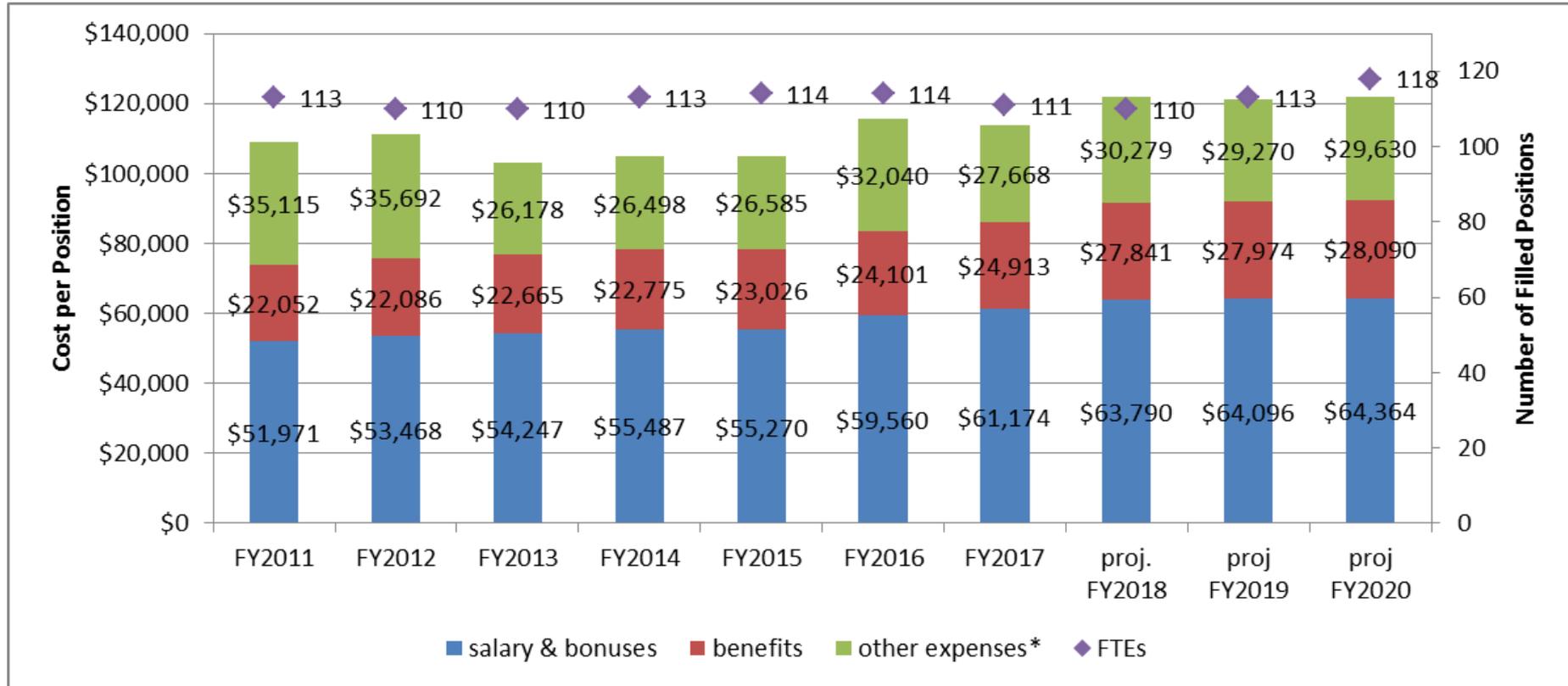


Increase in salaries due to the Tennessee Excellence in Accountability Management Act enacted by Tennessee General Assembly in 2012

■ Salary & Bonuses ■ Benefits ■ Other

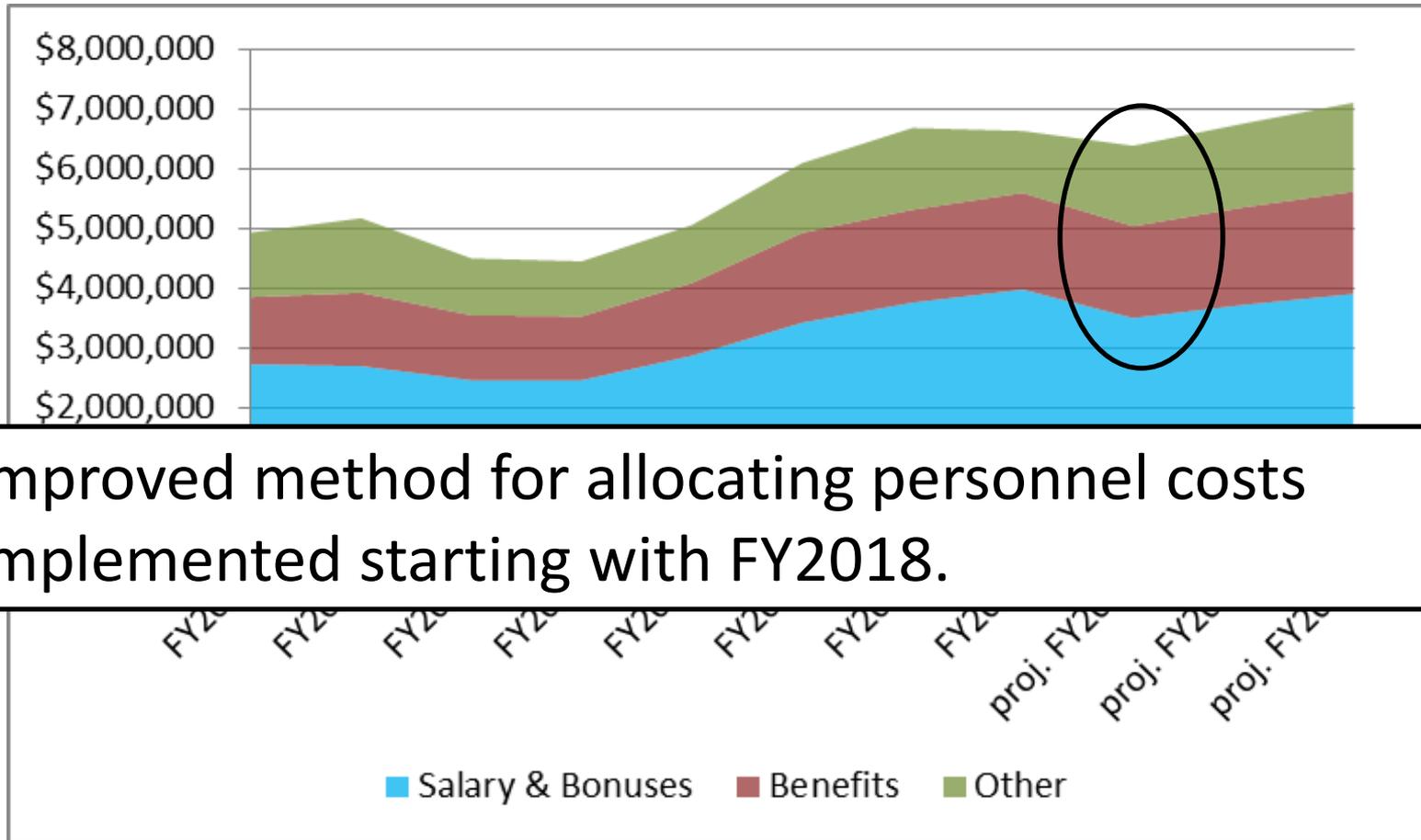
Increase in Expenses

Cost per Filled Position – All APC



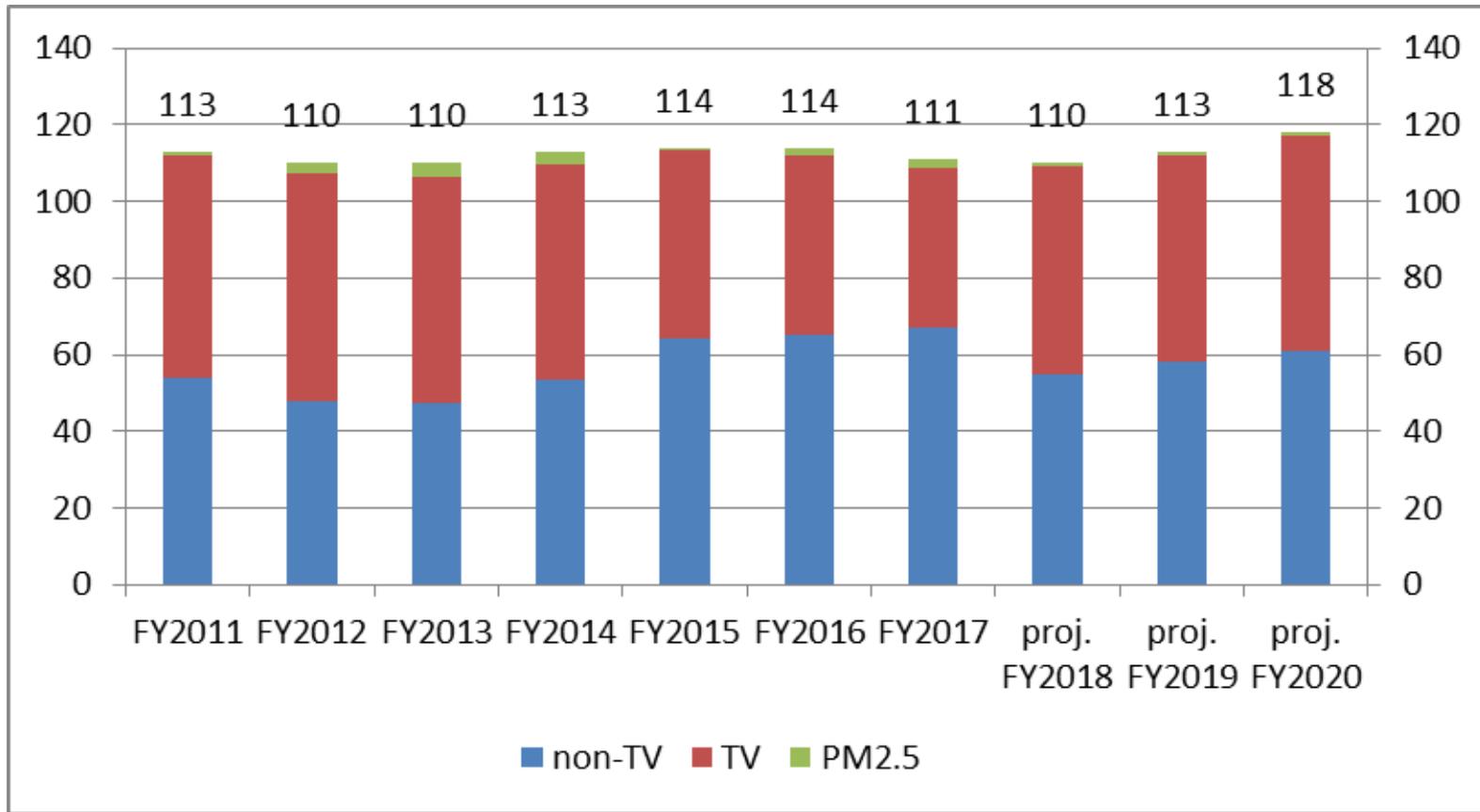
Salaries and benefits have increases since FY2012 due to TEAM Act. Benefits are based on a percentage of salaries.

Historical and Projected non-Title V Expenses



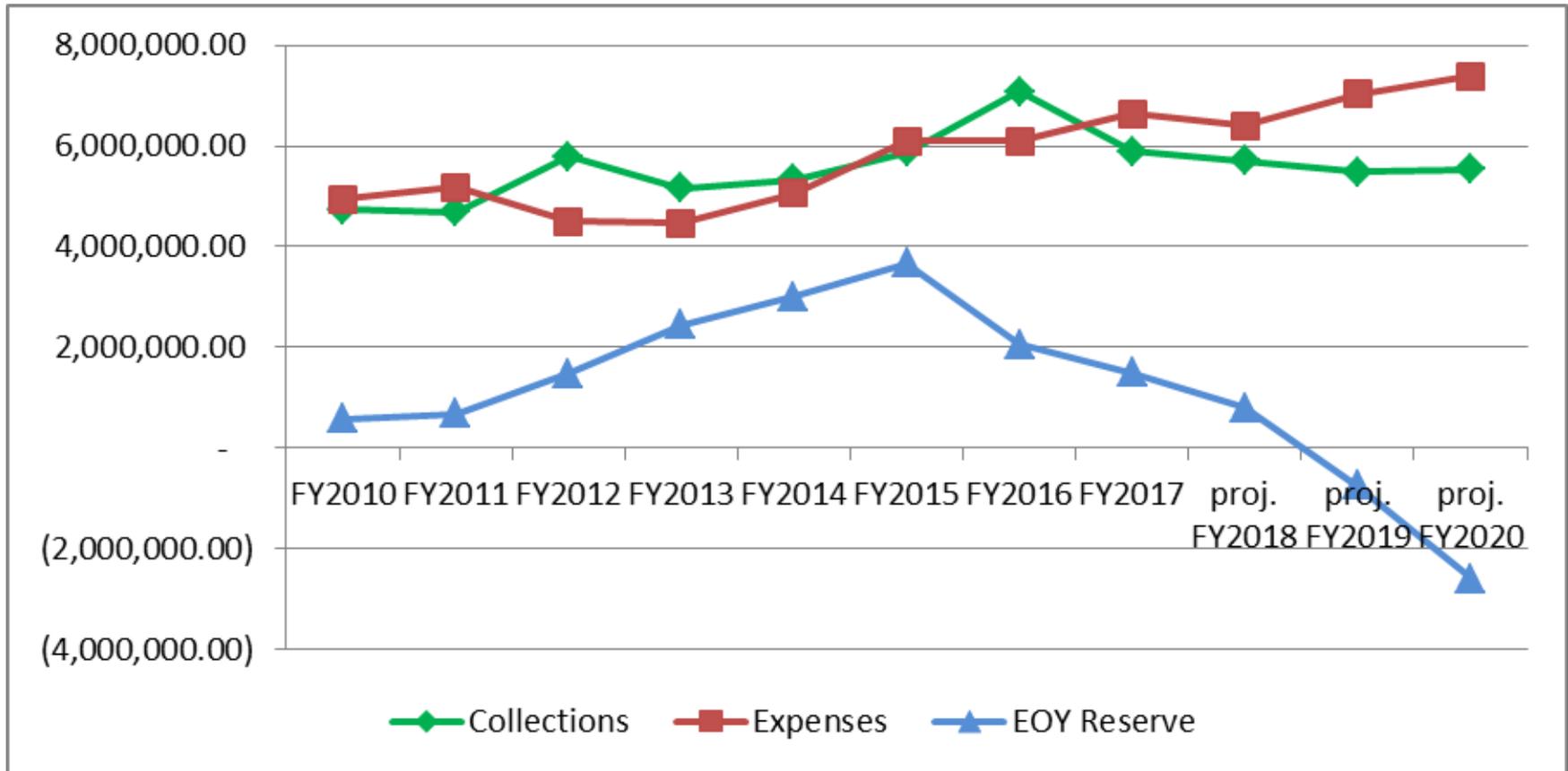
Improved method for allocating personnel costs implemented starting with FY2018.

Number of Filled Positions with % of salary by funding type



Percentage of salaries shifted from Title V to non-Title V FY2013-FY2017. Shifted back starting FY2018. (FY2019 & FY2020 projections assumes eight vacant positions are filled and no currently filled positions are vacated)

Historical and Projected Income vs. Expenses and End-of-Year Reserve



Summary

- non-Title V expenses increasing
 - Primarily due to increase in salary & benefits
 - Improved system for charging time will temporarily reduce expenses
 - Expenses predicted to increase ~3% per year
- non-Title V income has remained steady since FY2015
 - No fee increase since FY2011
 - Vehicle Emissions Testing contract renegotiations increased income in FY2015. Has been steady since then.
- Expenses have Exceeded Income since FY2014
- Reserve will be depleted during FY2019
- Need Fee increase starting in FY2020, maybe FY2019

Goals of Fee Revisions

- Provide Sufficient Income to Cover Expenses
- Restore Reserve
- Provide for Financial Stability for Upcoming Years

Potential Changes in non-Title V Fees

- non-Title V annual fees
 - Increase \$/ton – would require legislation, not an option at this point
 - Increase Conditional Major “review” fee
 - Add base fee for non-Title V annual fees for all sources
 - Add a minimum fee

Potential Changes in non-Title V Fees

- Construction fees
 - Revise/Re-structure fee schedule to increase fees (within max allowed by statute)
 - Increase maximum fee , currently \$5000 – statutory limit is \$7500
 - Increase modification fee, currently \$500
 - Add modification fees for permit amendments requested by permittee (e.g., extending expiration date, changing recordkeeping)
 - Add fee for “operational flexibility” determinations for non-Title V sources
 - Add fee for “insignificant activity” determinations for non-Title V sources when rules require such determinations

Potential Changes in non-Title V Fees

- Add Fees for General Permits
 - All General Permits
 - General Permits that serve as construction permits
 - Different Fees for different General Permits
- Fees for Services provided by APC (such as model review, stack test observation and review)
- Increase Smoke School Fees

Stakeholder Process – tentative dates

- Email to all non-Title V sources– 4/4/2018
- Kickoff Webinars - 4/18/2018 & 4/26/2018
 - present information & solicit input
 - response to survey due 4/30/2017
- Second Webinar - 5/9/2018
 - review stakeholder input including survey results
 - Face-to Face Meetings to be scheduled if Survey Indicates a Need
- Third Webinar - 6/7/2018
 - present analyses and strawmen
- Stakeholder Comments on Strawmen – date TBD
- Other Outreach
 - Statewide & Regional Organizations
 - Presentations at Conferences and Meetings

Rulemaking Process – Tentative Time Frame

- Initial Board Briefing – 3/14/18
- Stakeholder Process – April through July, 2018
- Second Board Briefing with proposed rule – 8/8/2018
- Public Notice with Proposed Rule – No Later than 8/22/2018
- Webinar to Discuss Proposal - ~ two weeks after public notice
- Public Hearing – 10/16/2018
- Board Adoption – 11/14/2018
- File with Secretary of State – No Later than 1/16/2019
- Effective Date of Rule – 4/16/2019
- Change in Fees Effective FY2020 (starts 7/1/2019)

New non-Title V Fee Website

- <https://www.tn.gov/environment/program-areas/apc-air-pollution-control-home/apc/permits-air/permit-fees/non-title-v-permit-fees.html>
- Go to www.tn.gov/environment
 1. Select “Permitting”
 2. Select “Air Permits”
 3. Select “Permit and Annual Emission Fees”
 4. Select “non-Title V Annual Fees “ or “Construction and Modification Application Fees”

New non-Title V Fee Website

- Current Rules
- Stakeholder Information
 - Webinar Information
 - Analysis Tools
 - Presentations
 - Stakeholder Comments
 - Survey www.surveymonkey.com/r/KG7VJ5D
- Proposed Rule Revisions



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Questions

How to Provide Input & Get Further Information

- Respond to survey
 - Link provided in April 4th email and on non-Title V fee website
- Submit comments and questions by email to:
 - air.permitting.permits@tn.gov
 - Include phrase “non-Title V fees” in subject line of email
- Small businesses may contact Tennessee’s Small Business Environmental Assistance Program at:
 - bgsbeap@tn.gov