

Air Management Advisory Group Quarterly Meeting

March 14, 2024

Hybrid Meeting Guidelines

- Attendees in the room can raise their hand and will be called on.
- Online attendees should use the raise hand feature and will be called upon by the meeting host
- The host will attempt to respond to all messages received
- Participants will join the meeting with their video disabled. We ask that you keep your video disabled for the duration of the meeting, unless called on by the host.

Air Management Advisory Group Quarterly Meeting Agenda

- Opening remarks
- Agenda review
- Financial Update
- Proposed guidance, rules and legislative update
- Member Updates
- Ozone Update
- PM NAAQS
- Clean Air Month/Poetry Contest
- 2024 Priority Topics

AMAG 11 Year Anniversary 2013-2024

- First meeting May 30, 2013



Fiscal Update

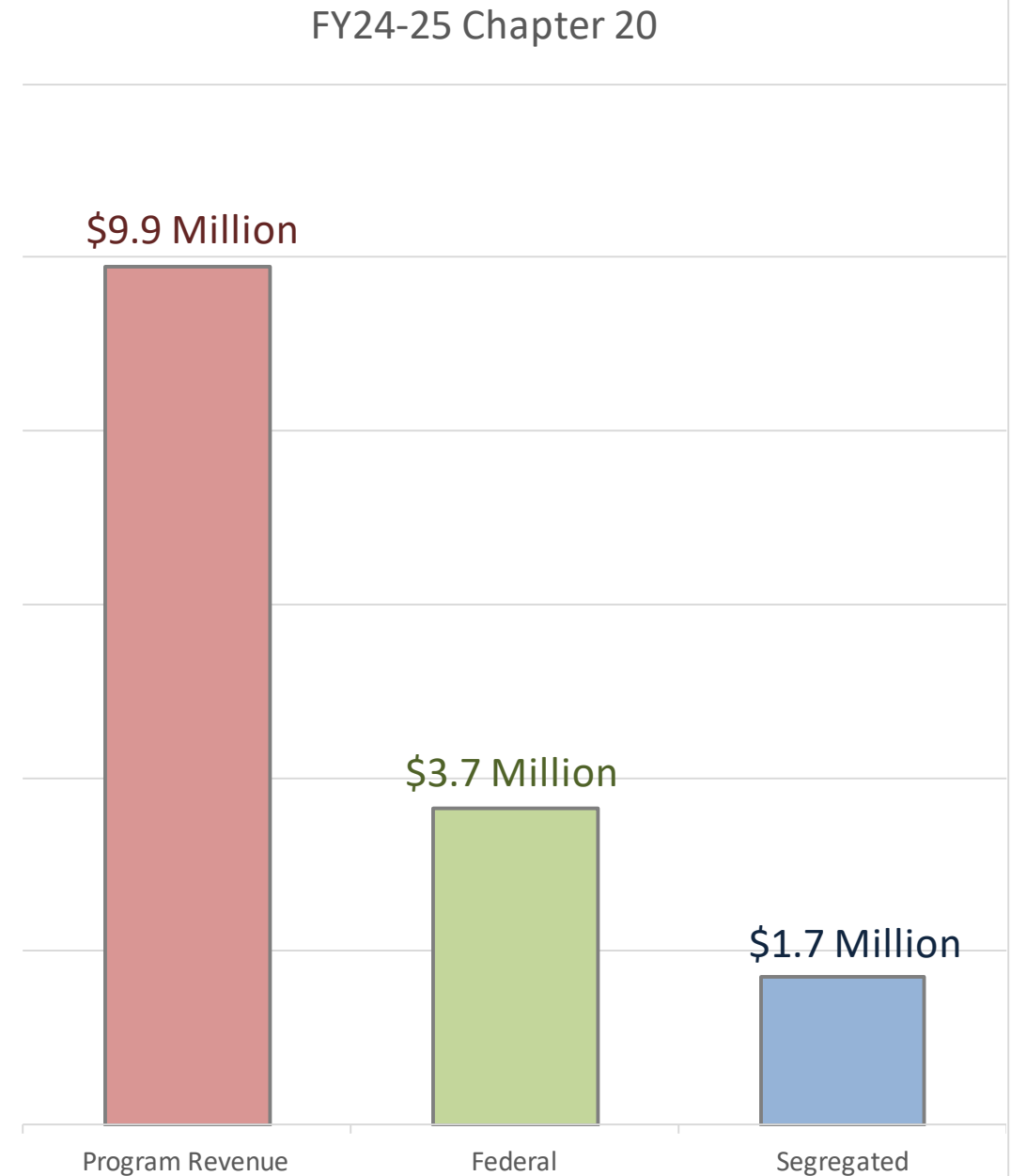
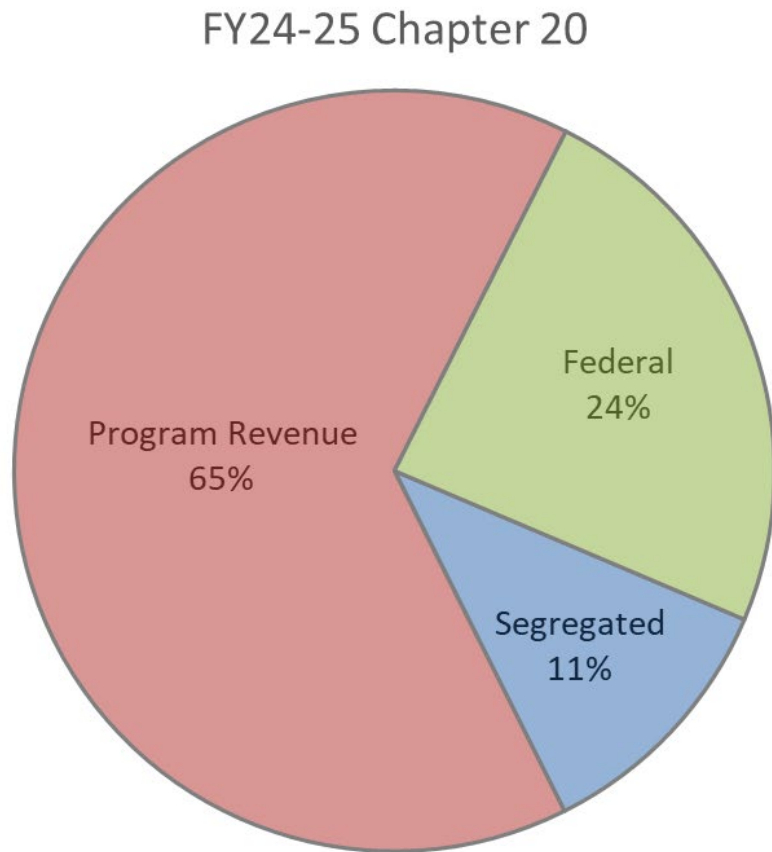
Gail Good, Air Management Program Director

Kristin Hart, Air Management Field Operations Director

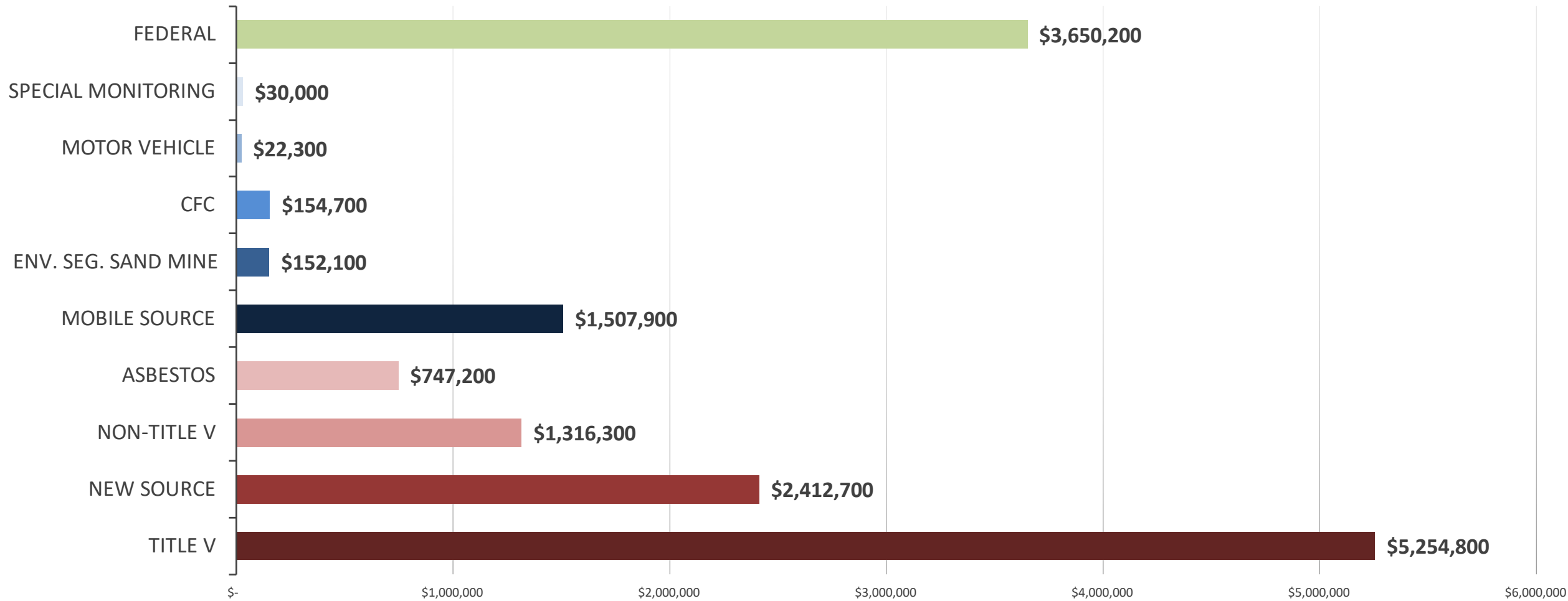
Overview

- Program Ch. 20 Authority
- Program Revenue Funding Sources
- What the Program is Doing to Manage Declining Budgets
- What is Next?

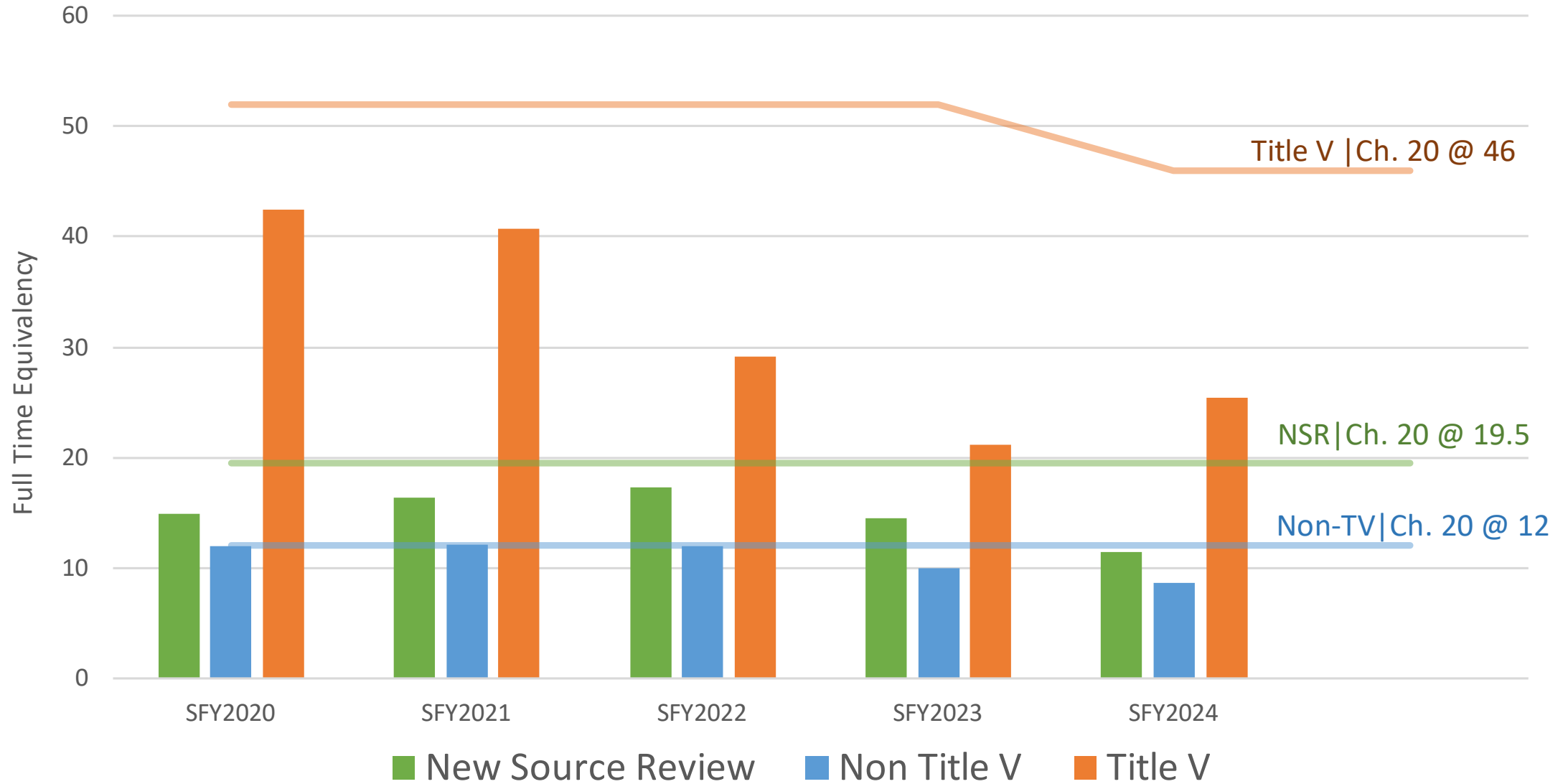
Ch. 20 Authority



Ch. 20 Authority



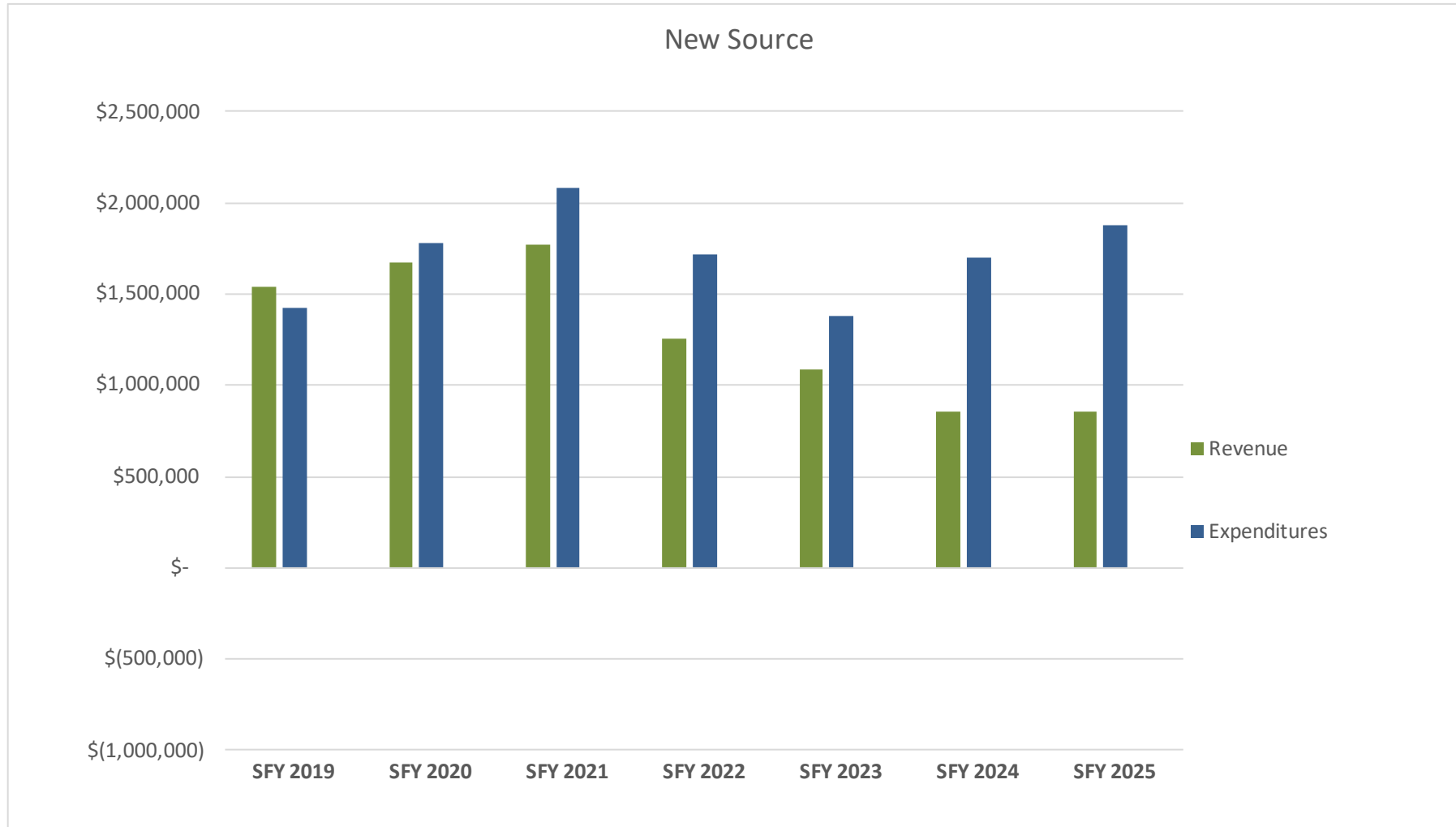
Staffing Trends & Chapter 20



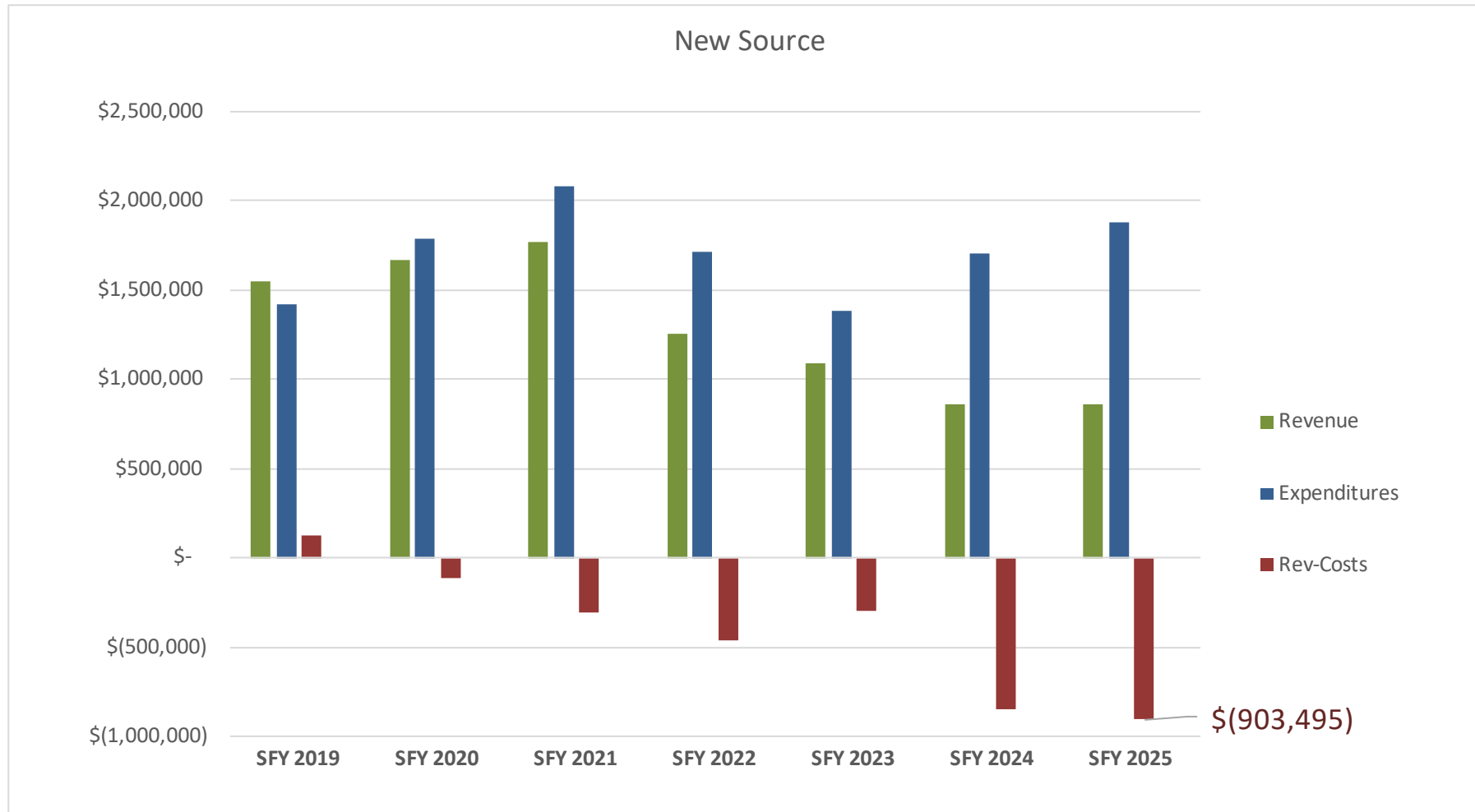
New Source Review Permitting Program

- The Clean Air Act requires sources of air pollution to obtain a construction permit before being constructed, relocated, or modified. Air Program staff review applications, issue permits and revisions, determine exemptions, and assist facilities with this requirement.
- The department is authorized under s. 285.69 to promulgate rules to collect fees to review and act upon construction permit applications. The CAA requires this work to be adequately funded through the collection of permit fees.
- With few exceptions, a facility cannot begin to construct or modify a source of air pollution before a construction permit is issued. Timely permit review and issuance is critical for industry to react to business opportunities and facilitate economic development.

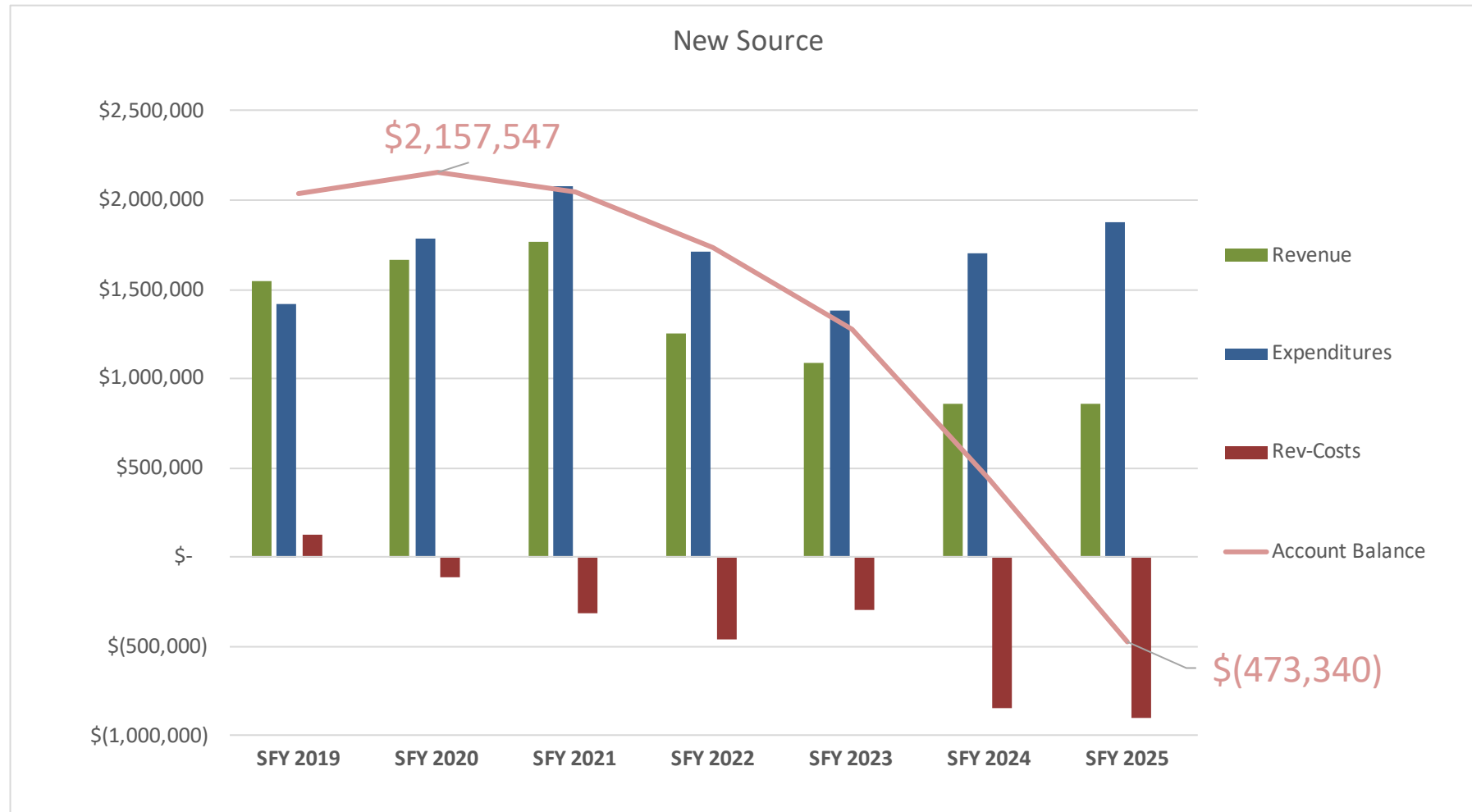
New Source Review



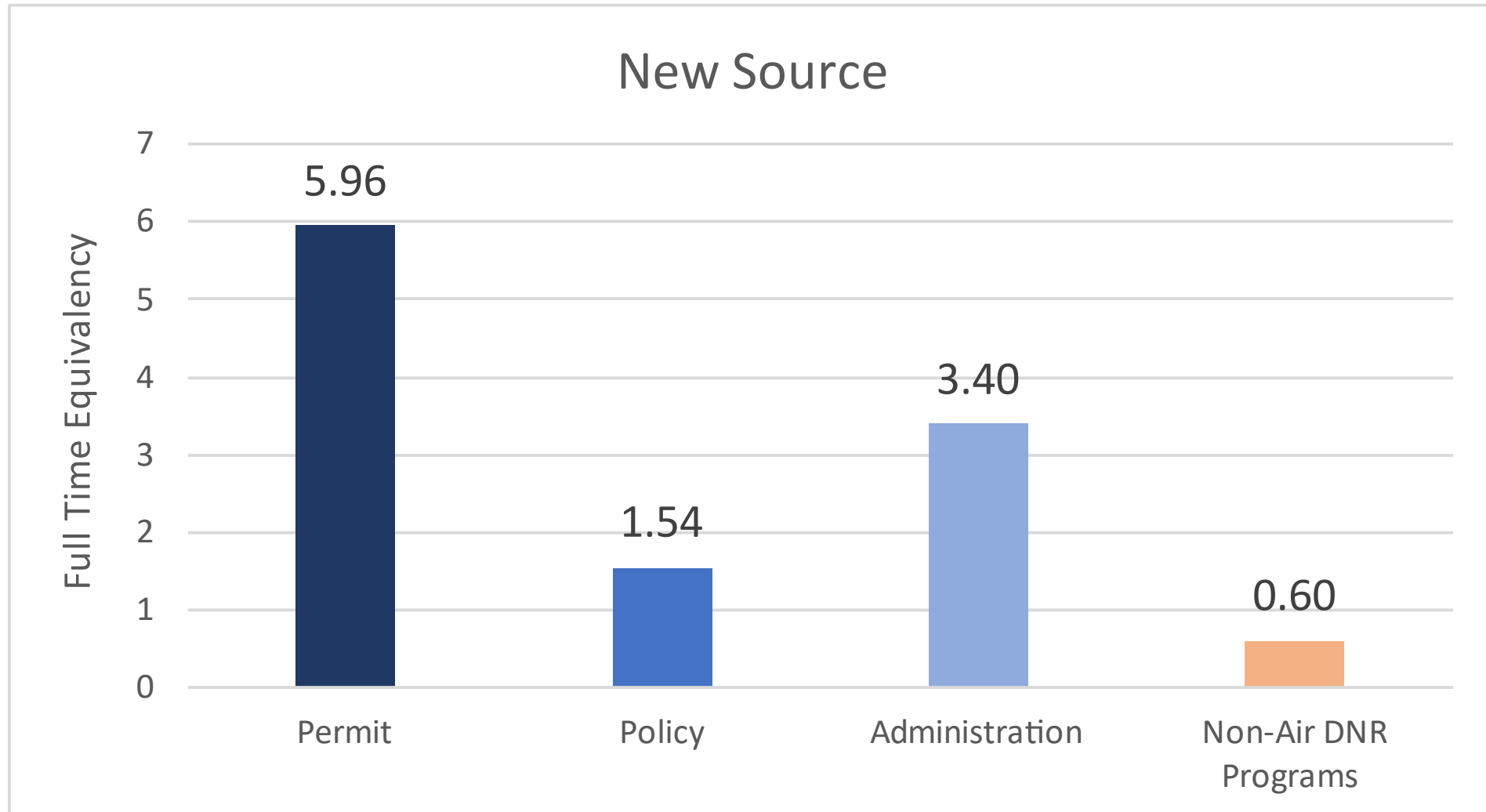
New Source Review



New Source Review



New Source Review



What is the Program Doing to Manage - NSR

- Moved FTE off NSR to other funding sources
- Moved expenses off NSR to other funding sources, when appropriate
- Implemented a permit writer hiring freeze
- Halted all work on automation
- Consolidated supervisor positions
- Began a rulemaking to increase fees (AM-10-23)

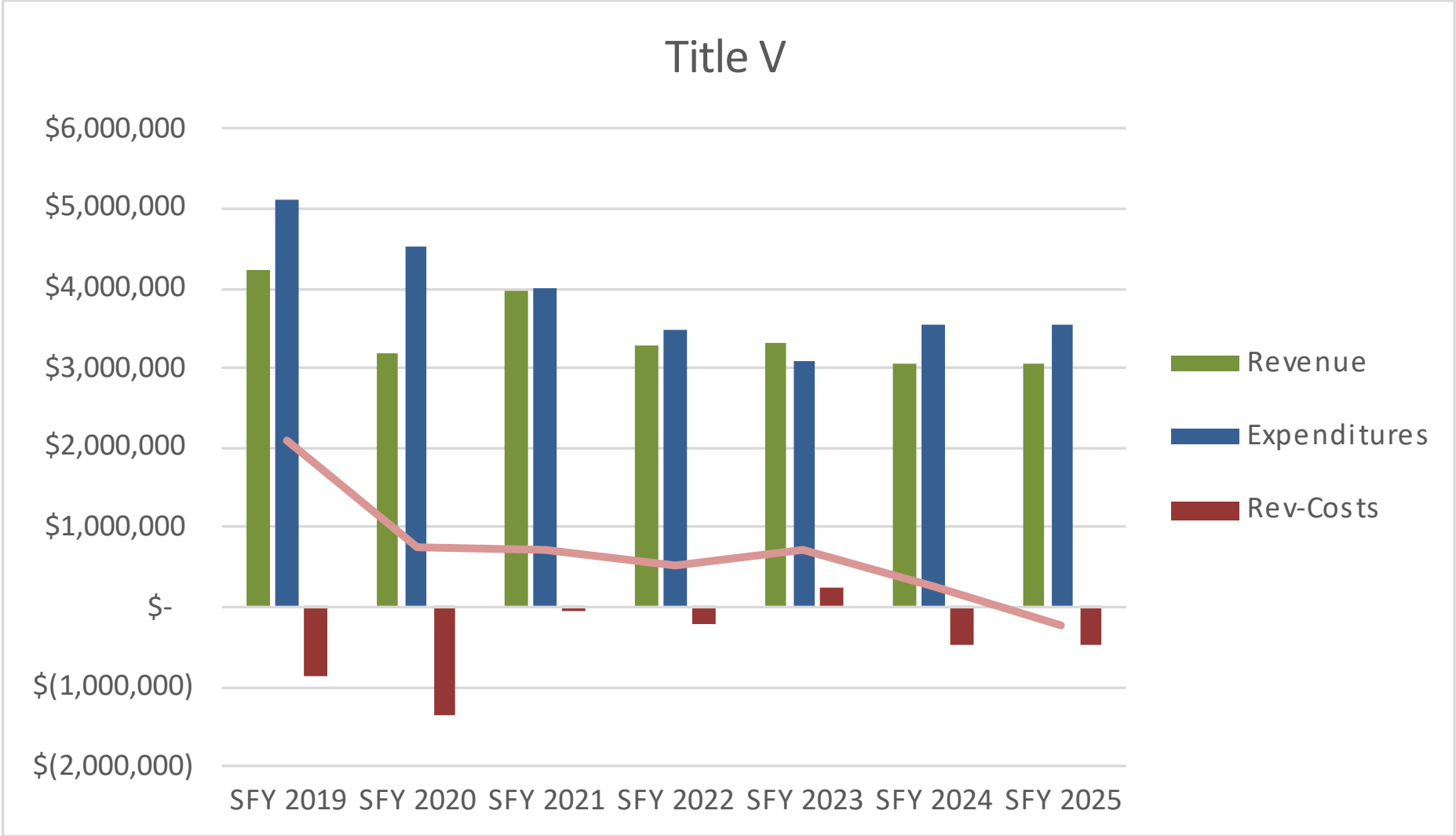
Background on Title V

- The Clean Air Act requires major sources of air pollution to apply for and obtain Title V Operation Permits
 - An operation permit is like a ‘file cabinet’ of all the regulatory requirements applicable to a facility
- Major sources must apply for and obtain renewals of Title V permits every 5 years
- Major sources must be inspected every 2 years on a schedule agreed to with EPA each year
- Activities funded by Title V include: the issuance of timely permits, compliance assistance, enforcement, streamlining processes
- DNR has operated a successful Title V program since April 1995

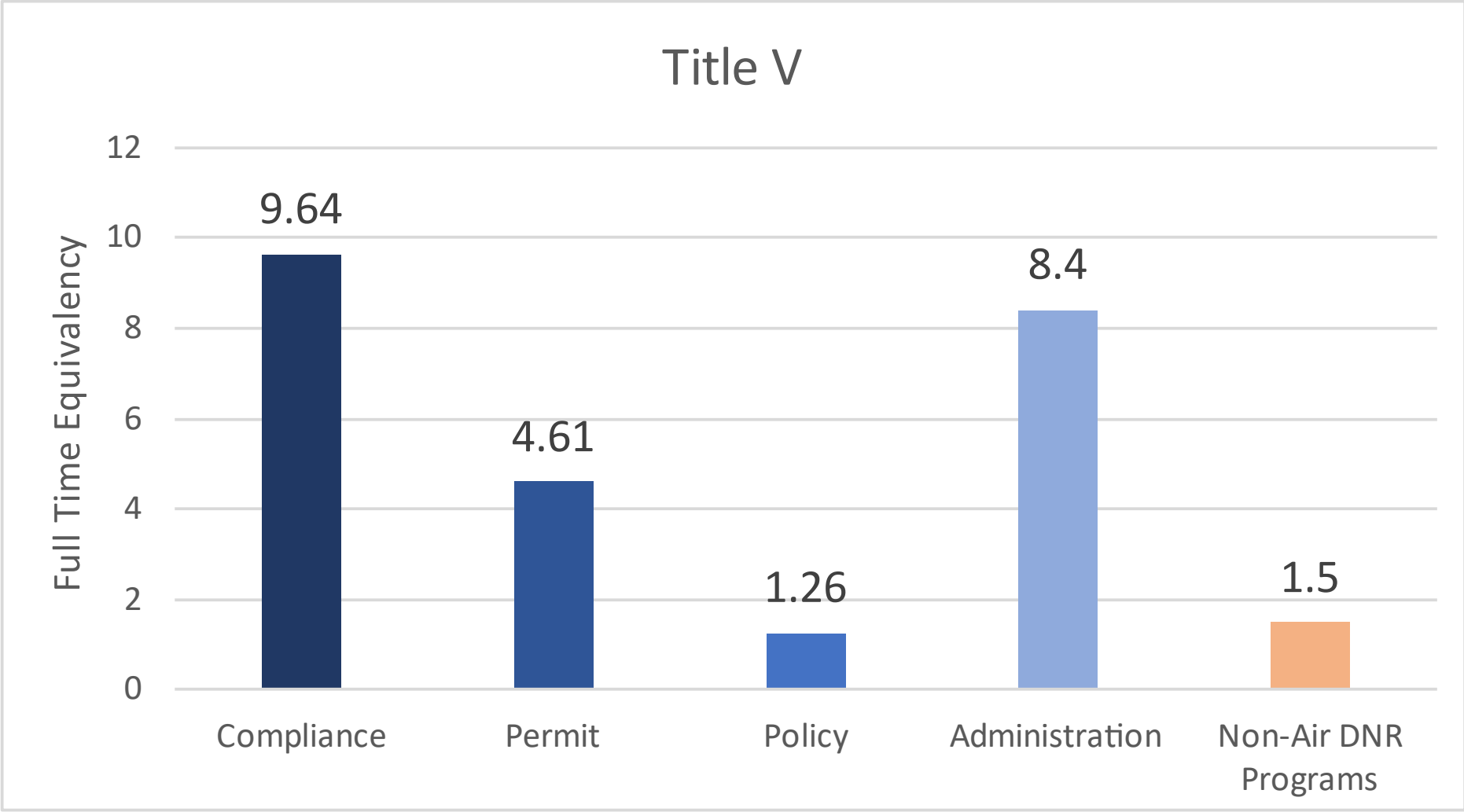
Background on Title V fees

- The Clean Air Act requires Title V program fee schedules to be sufficient to cover program costs and ensure fees will be used solely for program costs (CAA 502(b)(3), 40 CFR 70.9)
- The Clean Air Act requires Title V program fees meet a legal floor test, based on an outdated per ton approach to fees that is updated each year to reflect CPI (currently over \$60/ton)
- Current DNR fee structure requires a base fee, category fees (to account for complex regulations, and emissions fees)
- WI has always operated with one of the leanest budgets in the Midwest, valuing efficiency and innovation

Title V



Title V



What is the Program Doing to Manage – Title V

- Moved FTE off Title V to other funding sources
- Implemented a permit writer hiring freeze
- Focused on compliance work
- Halted all work on automation
- Consolidated supervisor positions

What is next – Title V

- Title V fees can only be increased through a biennial budget request
- The program must work on a concept paper for increased fees, due May 31, 2024
- AMAG member expertise needed to work on concepts for fee increase
- Title V Fees subgroup to meet 3 times prior to May 15, 2024 to make recommendations
 - Please let Craig Czarnecki know by March 22, 2024 if you can participate
 - First meeting April 5, 2024

Proposed Guidance, Rules and Legislative Update

Ron Binzley, Permits and Stationary Source Modeling Section Chief

Brianna Denk, Air Quality Planning and Standards Section Chief

Proposed/Final DNR Rules

Proposed DNR rule	Description	Phase
AM-05-21 NOx Reg	Updates to Reasonably Available Control Technology rules to control emissions of Nitrogen Compounds	Final Rule Effective 04/01/2024
AM-05-22 Compliance Demonstration Rule	Updates to NR 439 testing, monitoring, recordkeeping, reporting requirements for compliance Rulemaking to Revise Chapter NR 439 Wisconsin DNR	Public Comment Period
AM-10-23 NSR Fee Rule	Updates to construction permit fees to assure compliance with Clean Air Act requirements and to meet business needs of permitted sources	Economic Impact Assessment Comment Period

Proposed/Final DNR Guidance

Guidance Title	Description	Phase
Permit Guidance for RNG Processors	Guidance on how to determine air permit needs when installing renewable natural gas (RNG) systems associated with digesters.	In review

NR 410

- Solicitation of public comment on the EIA is in progress
- EIA comment period 3/4/24 to 4/2/24
- The public comment period for the proposed rule is currently scheduled to occur in Summer 2024

[NR410 Rulemaking | Wisconsin DNR](#)

NR 439

- Board order, EIA updated based on EIA comments and Response to comments
- NRB 15-day passive review completed
- Legislative Council 20-working day review in progress
- Public comment period 3/18/24 to 4/25/24
- Public Hearing on 4/18/24

[Rulemaking to Revise Chapter NR 439 | | Wisconsin DNR](#)

Proposed EPA Rules/Guidance

Proposed EPA rule/guidance	Docket	Comments due
Clarifying the Scope of "Applicable Requirements" Under State Operating Permit Programs and the Federal Operating Permit Program	EPA-HQ-OAR-2023-0401	4/10/2024
Air Quality Implementation Plans; South Coast Basin. Contingency measure disapproval	EPA-R09-OAR-2023-0626-0001	4/3/2024
Supplemental Federal Good Neighbor Plan Requirements for the 2015 8-hour Ozone National Ambient Air Quality Standards	EPA-HQ-OAR-2021-0663	5/16/2024
NSPS and EG: Large Municipal Waste Combustors	EPA-HQ-OAR-2017-0183	03/25/2024
Revisions to Regulations Related to Project Emissions Accounting	TBD	60 days after publication in the FR
Notice of Opportunity to Comment on Proposed Update of PM2.5 Data from T640/T640X PM Mass Monitors	EPA-HQ-OAR-2023-0642	03/15/2024

Finalized EPA Rules/Guidance

Finalized EPA rule/guidance	Link	Date finalized
Request from States for Removal of Gasoline Volatility Waiver	EPA-HQ-OAR-2022-0513	02/29/2024
Final Reconsideration of the National Ambient Air Quality Standards for Particulate Matter (PM)	EPA-HQ-OAR-2015-0072	02/07/2024
Power Plant GHG Rule- NSPS and EG	TBD	Sent to OMB 2/29/2024

Member Updates

Ozone Topics

Katie Praedel
Air Monitoring Section Chief

Brianna Denk
Air Quality Planning and Standards Section Chief

Phillip Bower
Deputy Counsel

Good Neighbor Plan Updates

- EPA promulgated two interim final rules to stay the Good Neighbor Plan implementation in 12 states
 - The DNR did develop comments on both rules.
- Currently, the rule is being fully implemented in 10 states including Wisconsin
- In January, EPA proposed to disapprove SIPs for interstate ozone reduction from Arizona, Iowa, Kansas, New Mexico and Tennessee, and to instead include these states in the GNP
 - The DNR will likely develop comments similar to comments on the GNP
- U.S. Supreme Court heard argument on Feb. 21 on whether to stay the GNP
 - Wisconsin part of multi-state coalition opposing the stay; NY argued on behalf of coalition

Good Neighbor Plan Updates

- Status of active Wisconsin DOJ litigation in D.C. Circuit:
 - *Utah v. EPA*, Case No. 23-1157
 - Briefing schedule was extended due to U.S. Supreme Court argument
 - Petitioners' opening briefs are due April 1, 2024 (including Wisconsin)
 - Briefing concludes Aug. 22, 2024
 - Oral argument anticipated to take place in fall 2024
 - Impact of U.S. Supreme Court decision on stay?

Wisconsin's Issues with the GNP

1. The final rule fails to require emissions reductions from sources in states upwind of Wisconsin as necessary to prohibit those sources from contributing significantly to exceedances of the 2015 ozone NAAQS in Wisconsin.
2. Even for the modest emissions reductions that the rule does finally require for the 2015 ozone NAAQS, the rule fails to require those reductions be implemented as expeditiously as practicable and to account for Wisconsin's current and impending obligations to demonstrate attainment or maintenance of the 2015 ozone NAAQS.
3. By failing to include adequate provisions to control emissions in states upwind of Wisconsin, thereby requiring Wisconsin to undertake measures to account for those upwind contributions, the final rule unlawfully shifts EPA's statutory obligations to Wisconsin and requires the state to implement control measures not required under the Clean Air Act.
4. By failing to require emissions reductions from mobile sources in states upwind of Wisconsin, the final rule unlawfully fails to "prohibit[...]any source or other type of emissions activity within the State from emitting any air pollutant," including from those sources that significantly contribute to Wisconsin's nonattainment with the 2015 ozone NAAQS.

EPA's Proposed SSM SIP Call for Wisconsin

- On February 24, 2023, EPA proposed to find three Wisconsin SSM rule provisions substantially inadequate. Seven other states were included in EPA's proposed 2023 SIP Call.
 - EPA labeled Wisconsin's SMM provisions as “automatic and director’s discretion” provisions which violated the CAA that emission limitations in a SIP be continuous
 - EPA's finding that these provisions may be “substantially inadequate” does not mean the entire Air Program or SIP is deficient. This is a technical determination that narrowly applies only to this specific issue.
- SSM Provisions in the proposed SIP call are opacity limits in ss. NR 431.05(1) and (2) and the exceptions to emission limitations in s. NR 436.03(2)
- If finalized, the SIP call would require Wisconsin to revise its SIP within 18 months.
- The proposed SIP call has not yet been finalized.

D.C. Circuit Decision

- D.C. Circuit decided *Environmental Committee of the Florida Electric Power Coordinating Group v. EPA* (15-1239) on March 1, 2024
- Petitioners challenged EPA SIP Calls related to four types of SSM provisions:
 - Automatic Exemptions – exclude SSM periods from otherwise applicable emission rules
 - Director’s Discretion – allow state officials to independently and conclusively decide excess emissions are not violations during SSM periods
 - Overboard Enforcement Discretion (Tennessee only) – could be read to allow state official to excuse emission violations during SSM periods in a way to foreclose EPA or citizen enforcement
 - Affirmative Defenses for excess emissions during SSM periods – some protect against all liability, while others only against certain forms of relief

D.C. Circuit Decision - Argument

- EPA primarily argued that:
 - Automatic Exemptions and Director's Discretion provisions violate CAA requirement that emission limitations must be continuous
 - Overbroad Enforcement Discretion and Affirmative Defense provisions unlawfully interfere with the CAA's enforcement scheme
- Court interpreted 42 USC s. 7410(a)(2)(A):
 - a SIP shall "include enforceable emission limitations and other control measures, means, or techniques..., as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter."

D.C. Circuit Decision – SSM Holdings

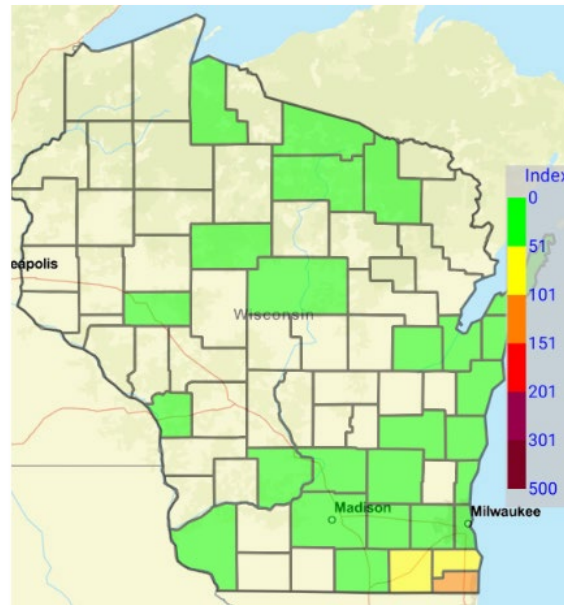
- Automatic Exemptions and Director’s Discretion provisions
 - EPA’s blanket Call of these provisions set aside
 - A measure that is not an emission limitation can be included in a SIP if it is not “necessary or appropriate” that the measure qualify as an emission limitation for the state to meet other applicable requirements of the CAA
 - EPA did not make “necessary or appropriate” determinations in the Calls
 - Court leaves door open for EPA to make additional determinations subject to judicial review

D.C. Circuit Decision – SSM Holdings

- Affirmative Defenses
 - Complete affirmative defense to an action brought for non-compliance if source complies with conditions – SIP call set aside
 - Affirmative defenses against certain remedies such as injunctive relief or monetary penalties – SIP call upheld because block CAA's enforcement regime
- Overbroad Enforcement (Tennessee only) – EPA's Call upheld

Ozone Season Start-Up

- Statewide Ozone Monitoring Season Starts April 1st
 - Kenosha County Monitors Started March 1st
- Enhanced Ozone Monitoring will begin May 1st



The screenshot shows the Wisconsin AQM mobile app interface. At the top, the status bar displays the time (3:12), signal strength, and battery level (50%). The app header includes the Wisconsin AQM logo and navigation icons. Below the header, three pollutant cards are shown: O3 (OZONE) with a value of 116, PM2.5 with a value of 47, and CO with a value of 2. A 'Pollutant' section header is followed by a table of pollutant data.

Pollutant	Description	Value
<i>i</i> OZONE	OZONE	78.8 ppb
<i>i</i> PM2.5 - LC	PM2.5	12.5 ug/m3 (LC)

Below the table is a 'Weather' section header. At the bottom, three weather cards are displayed: TEMPERATURE (75.4 degF), WIND SPEED & DIRECTION (10.4), and PRECIPITATION (0 inches).

Ozone Planning Update

- Finding of Failure to Submit on Moderate area planning requirements - Due May 2025
 - Attainment demonstration
 - RACT
 - Contingency measures
 - Reasonable further progress
 - Transportation conformity budgets
- Moderate area attainment date for 2015 NAAQS is August 3, 2024.
- Reclassification to Serious based on 2021-2023 data by February 3, 2025.

PM NAAQS

Brianna Denk
Air Quality Planning and Standards Section Chief

Katie Praedel
Air Monitoring Section Chief

Ron Binzley
Permits and Stationary Source Modeling Section Chief

Revision to the annual PM_{2.5} Standard

- EPA is revising the level of the annual PM_{2.5} standard to 9.0 µg/m³ to meet the Clean Air Act requirement that standards “requisite to protect public health with an adequate margin of safety,” including the health of at-risk populations.
- EPA concluded that the available scientific information supports strengthening the annual PM_{2.5} standard to ensure it adequately protects public health.
- EPA’s decision reflects Clean Air Scientific Advisory Committee (CASAC) advice and public input.
 - CASAC reached consensus that the annual PM_{2.5} standard should be revised, with the majority recommending revision to a level between 8-10 µg/m³

2024 Particulate Matter Standard

2024 PM NAAQS published in the Federal Register on March 6, 2024 and will be effective May 6, 2024

NAAQS	Most Recent Standard	2024 PM NAAQS
PM _{2.5} annual standard	12 µg/m ³ (set in 2012)	9 µg/m ³
PM _{2.5} 24-hour standard	35 µg/m ³ (set in 2006)	No change
PM ₁₀ standard	150 µg/m ³ (set in 1987)	No change

PM NAAQS Monitoring Updates



- EPA's proposed changes to the PM_{2.5} monitoring network:
 - Establishes network design criteria for some large metropolitan areas to ensure monitoring in 'at risk' communities.
 - Updates the Air Quality Index (AQI) to reflect proposed changes to the PM_{2.5} standards and latest science.

PM NAAQS Permitting Impacts

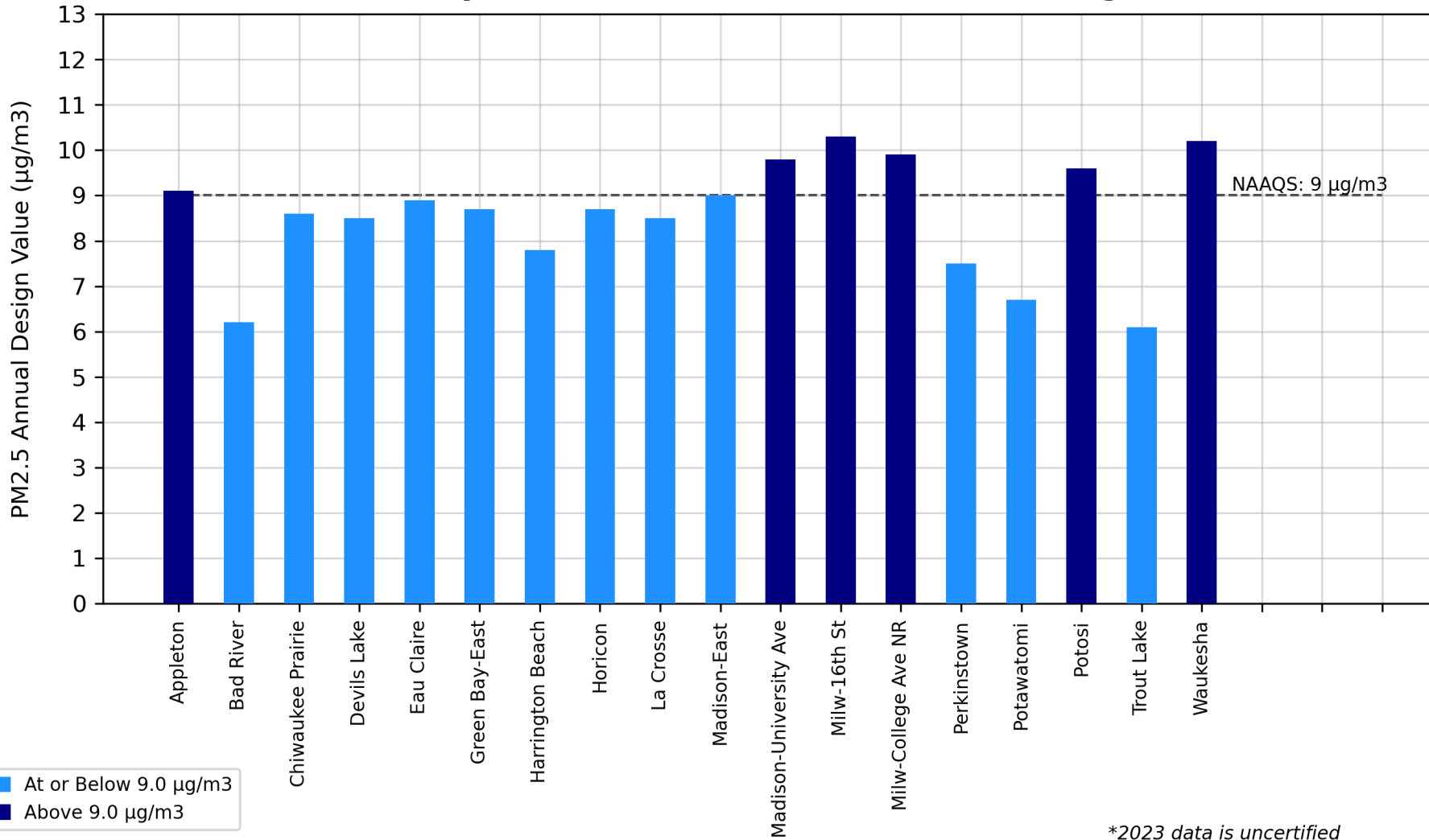
- The final PM NAAQS revision does not impact existing air permits or require sources with existing permits to seek revisions.
- However, beginning on the effective date, the revised standard will have an impact on how the department must evaluate some types of permit applications.

Next Steps: Designations Process

A revised NAAQS starts a designations process in which EPA determines the areas of the country that are in ‘attainment’ of the NAAQS and those that are in ‘nonattainment’.

It is too early to say with certainty if Wisconsin will have areas designated ‘nonattainment’ for the revised standard.

Preliminary 2023* PM2.5 Annual Design Values



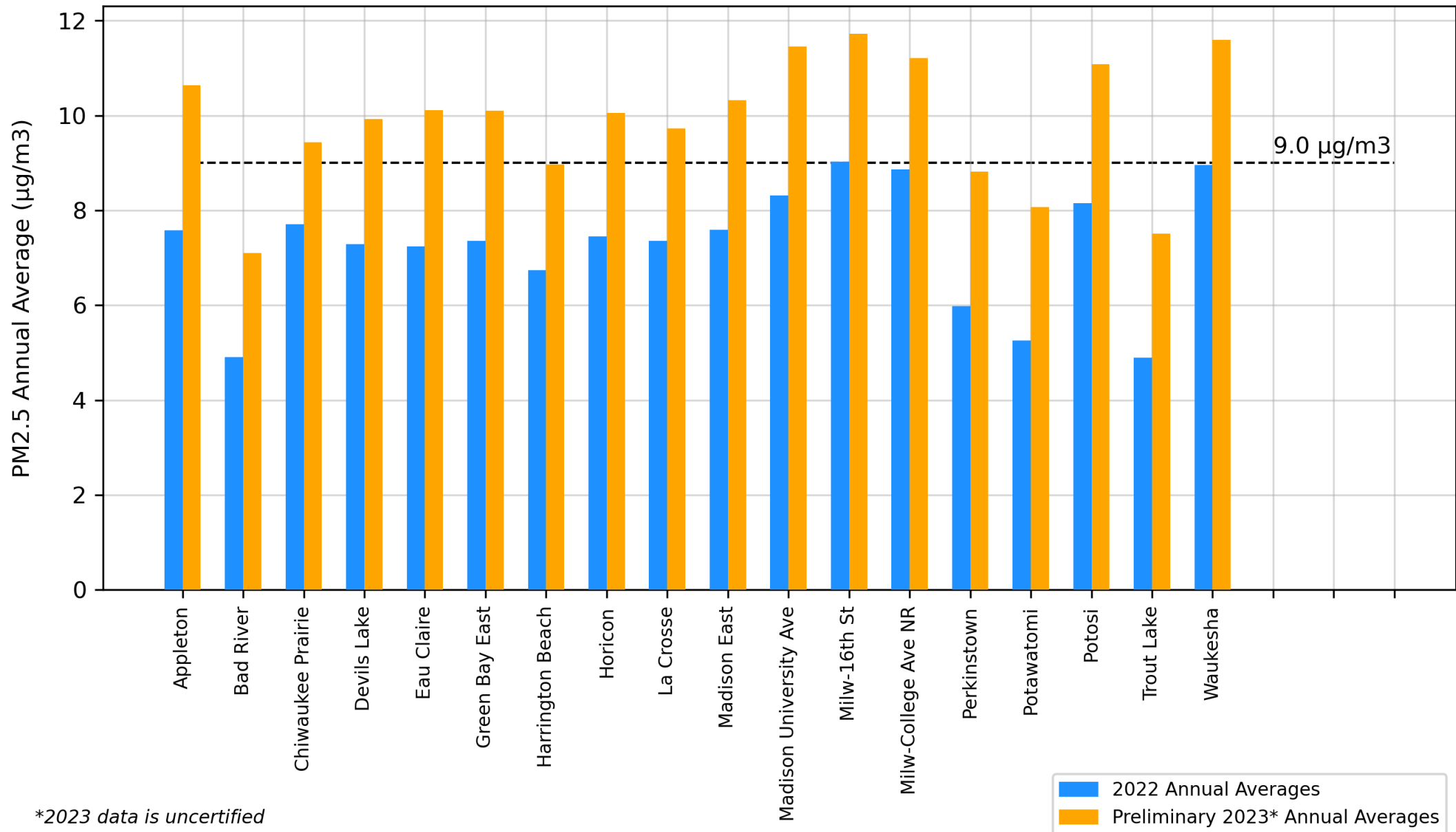
2023 data is preliminary and will change.

*2023 data is uncertified

Teledyne Update

- On February 15, 2024, the EPA released the “Proposal to Update PM2.5 Data from T640/T640x PM Mass Monitors”.
- The release acknowledges the T640/T640x monitors do not meet Method Quality Objectives for bias compared to Federal Reference Methods.

2022 and Preliminary 2023* Annual PM2.5 Averages



Exceptional Events

- The Exceptional Events Rule implements Clean Air Act (CAA) Section 319(b), Air Quality Monitoring Data Influenced by Exceptional Events.
- Exceptional events are defined in the CAA as events that affect air quality, are not reasonably controllable or preventable, and are either natural events or caused by human activity unlikely to recur.
- Air agencies can request exclusion of data influenced by exceptional events from use in regulatory decisions, such as initial area designations of a revised NAAQS.

New Exceptional Events Implementation Resources

- On January 11, 2024 EPA announced new resources to use when completing an exceptional events demonstration.
 - Data Visualization and comparison tools
 - PM2.5 Wildfire Exceptional Events Tiering Supplement
 - Prescribed Fire Demonstration Example
- Comment period ended on February 2, 2024
 - Streamlined process valuable and necessary
 - Short comment period
 - Technical clarifications

Proposed PM Wildfire EE Tiering

- Proposed document identifies three analytical “tiers” and associated levels of evidence appropriate to show the clear causal relationship in an PM EE demonstration.
- Goal of the document is to clarify expectations on approvable EE demonstrations.
 - Avoid preparation and submission of extraneous information
 - Identifies important language and analysis
 - Better manage state resources
 - Basis for consistent understanding between states and EPA

Proposed PM Wildfire EE Tiering

Tier 1	Tier 2	Tier 3
<p>The event clearly influences monitored PM2.5 exceedances or violations when they occur in an area that typically experiences lower PM2.5 concentrations.</p>	<p>The event's PM2.5 influences are higher than most or all non-event related concentrations, and the weight of evidence shows a clear causal relationship.</p>	<p>The event does not fall into the specific scenarios that qualify for Tier 1 or Tier 2, and a stronger weight of evidence approach may be necessary.</p>
<p>One piece of evidence demonstrating that fire emissions affected monitor.</p>	<p>Three pieces of evidence demonstrating that fire emissions affected monitor.</p>	<p>Four pieces of evidence demonstrating that fire emissions affected monitor.</p>
		<p>Additional evidence appropriate to the event.</p>

Clean Air Month/Poetry Contest

Craig Czarnecki, Outreach Coordinator

Air, Air Everywhere Poetry Contest

- Kicks off March 19
- Entries due May 3
- Winners will be announced end of May
- Send submissions to: DNRAirEducation@wisconsin.gov
- More info: [Poetry Contest Page](#)



Clean Air Month

- News Release
- Social Media
- Web updates



2024 Priority Topics

Gail Good, Air Management Director

2024 Priority Topics

Emerging federal regulation

- Emerging contaminants (PFAS)
- Federal permit actions
- **PM2.5 NAAQS**
- Long term planning at the federal level
- Climate initiatives

Ongoing efforts

- **Environmental Justice**
- 2015 ozone NAAQS implementation
- Ozone transport
- SIP submittals and redesignation requests
- Regional haze
- Rulemaking

Opportunities

- **Inflation Reduction Act**
- Transparency in information
- Goals and vision of DNR
- Working with other states and organizations

CONNECT WITH US

Next Meeting

June 4, 2024



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"WILD WISCONSIN:
OFF THE RECORD"