



Department of
**Environment &
Conservation**

Title V Fee Webinar

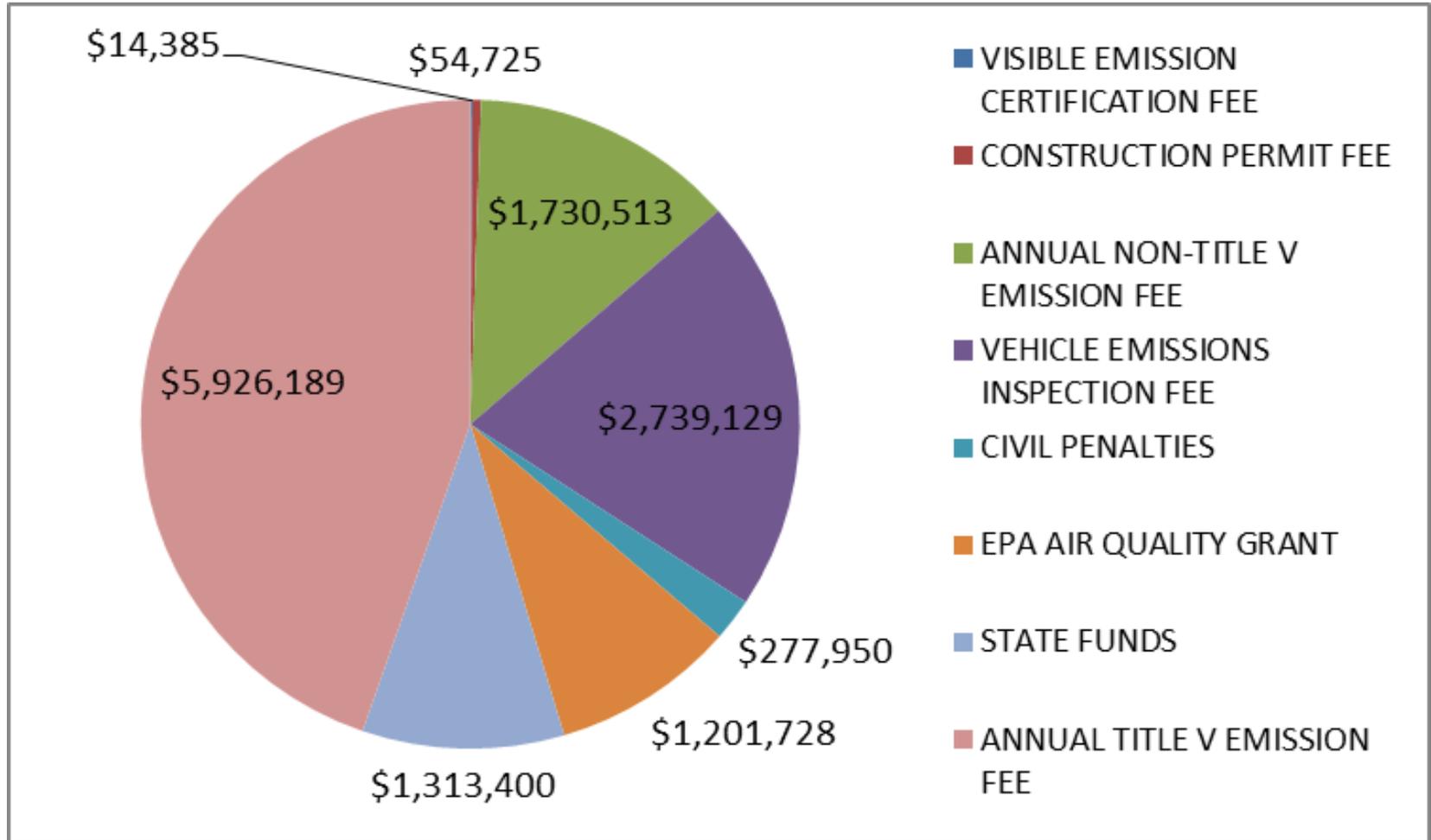
October 23, 2019

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 regulatory requirements apply to Title V fees?
- Historical and Projected Collections
- Historical and Projected Expenses and Reserve
- Proposed Rule
- Demonstration of Title V Fee Analysis Tool
- Public Hearing and Comment Information
- Website

How is the Air Division Funded?

Fiscal Year 2019



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 regulatory requirements apply to Title V fees?

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

(1) Purpose

- (c) Annual emission fees collected from sources named by the Board in the Division's Workload Analysis as being major sources pursuant to the provisions of **Title V** of the federal Clean Air Act and the federal regulations at 40 C.F.R. Part 70 [FR Vol 57, No. 140, Tuesday, July 21, 1992 p32295-32312] and the definition of a major source in subparagraph 1200-03-26-.02(2)(g) shall be used to pay for the direct and indirect costs of:
1. Preparing generally applicable **regulations or guidance** regarding the permit program or its implementation or enforcement;
 2. Reviewing and acting on any application for a **permit, permit revision, or permit renewal**, including the development of an applicable requirement as part of the processing of a permit, or permit revision or renewal;
 3. General **administrative costs** of running the permit program, including the supporting and tracking of permit applications, compliance certification and related data entry;

What regulatory requirements apply to Title V fees?

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

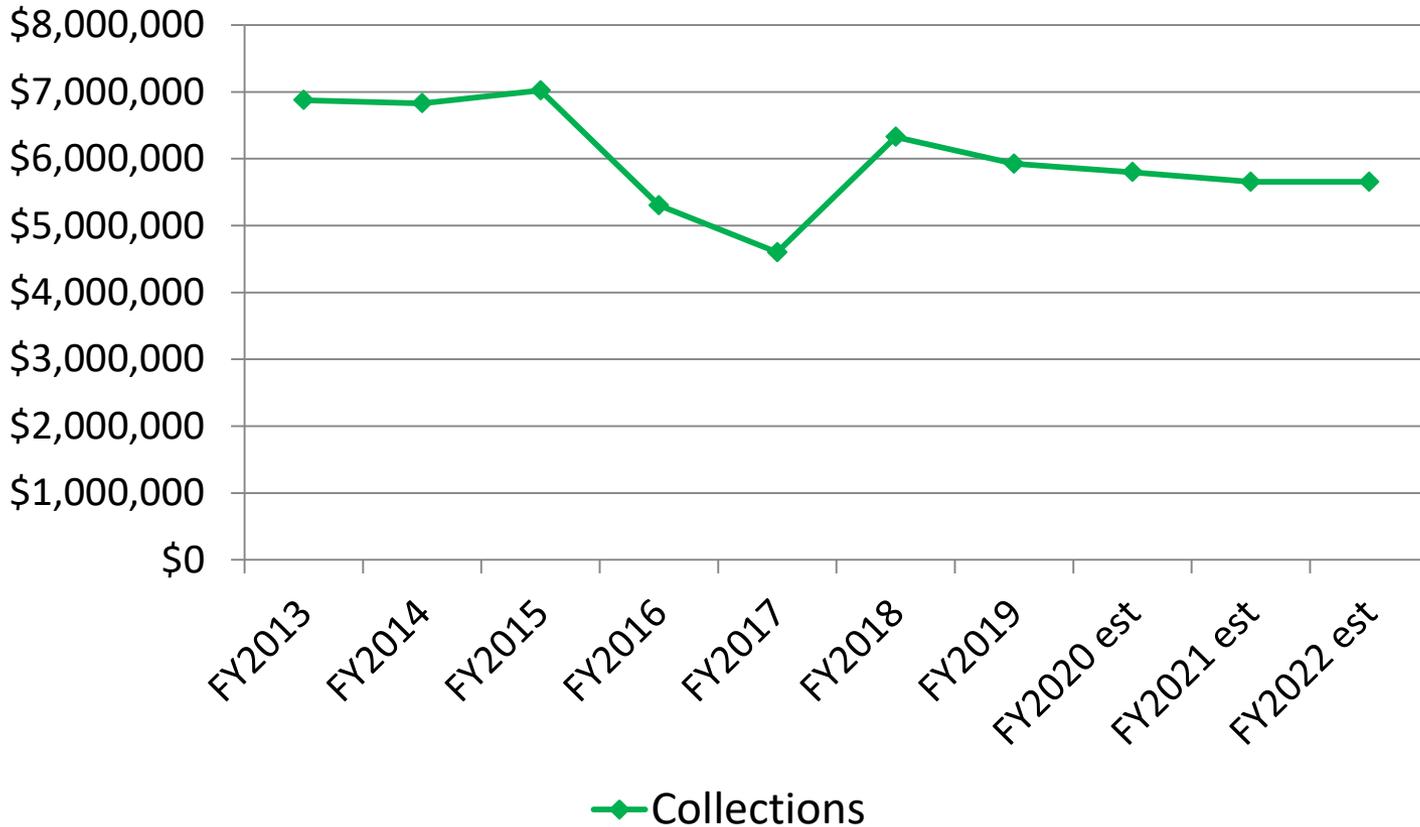
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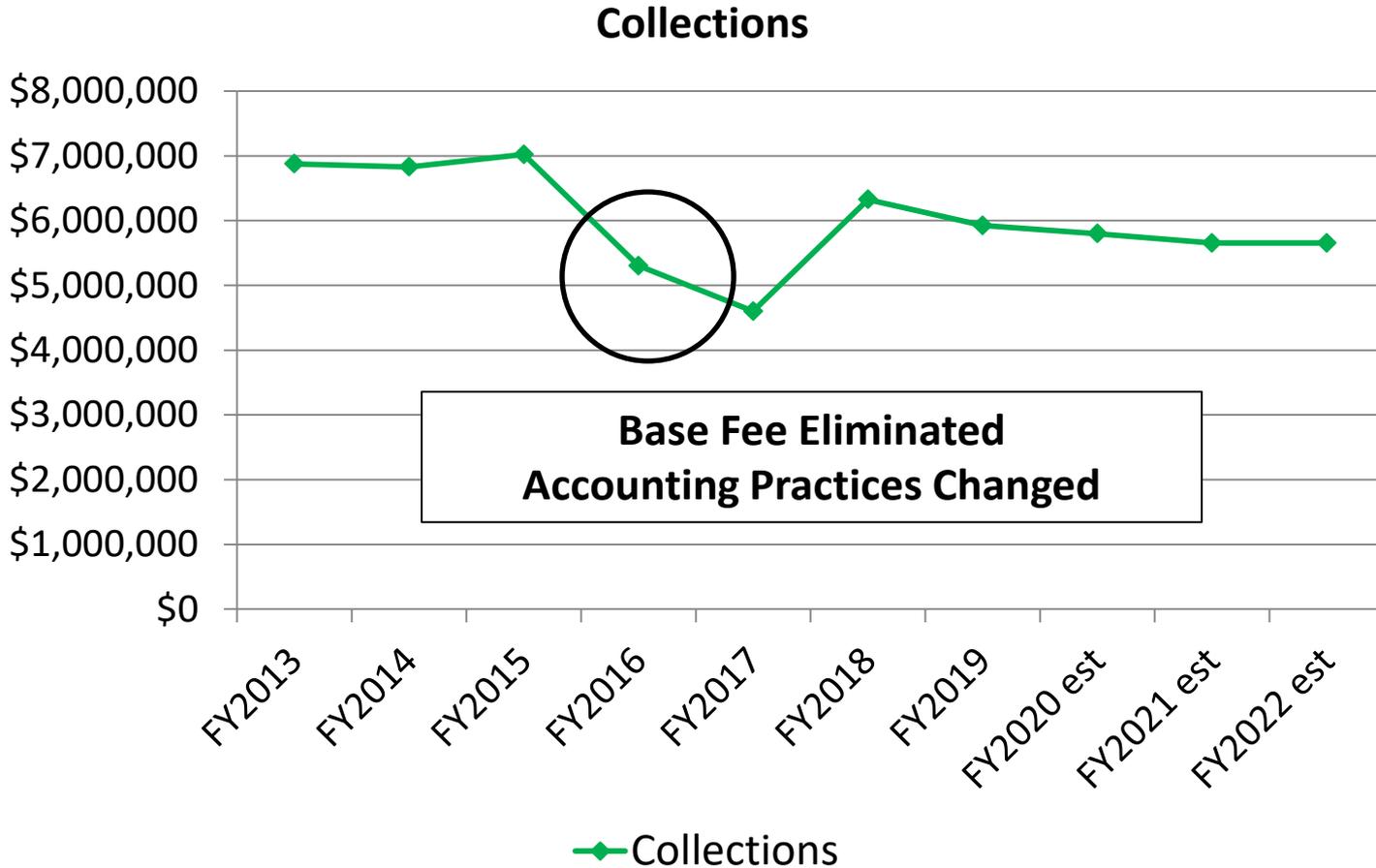
4. **Implementing and enforcing** the terms of any part 70 permit (not including any court costs or other costs associated with an enforcement action), including adequate resources to determine which sources are subject to the program;
5. **Emissions and ambient monitoring;**
6. **Modeling**, analyses, or demonstrations;
7. Preparing **inventories** and tracking **emissions**; and
8. Providing direct and indirect support to sources under the **Small Business Environmental Assistance Program**.

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

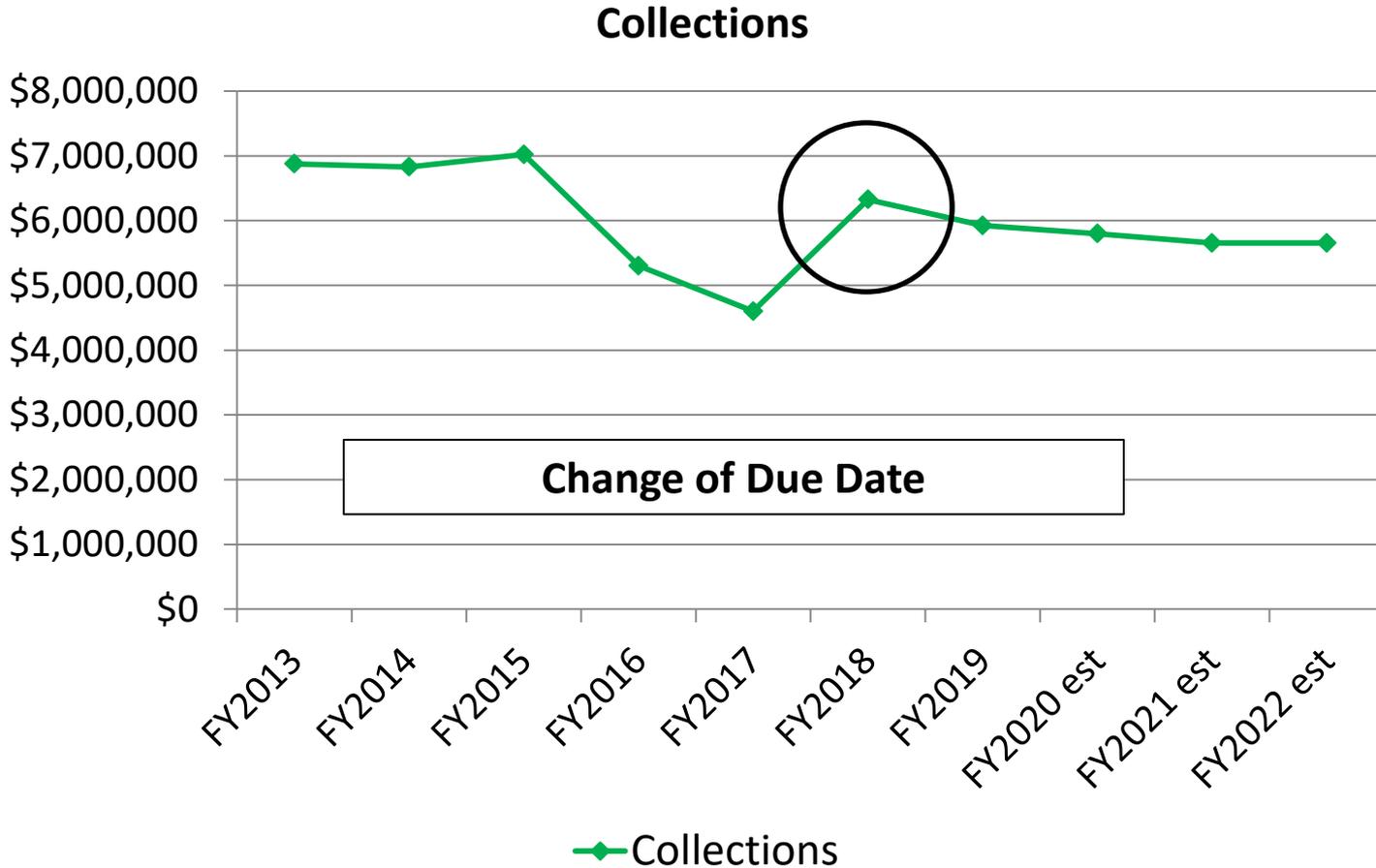
Collections



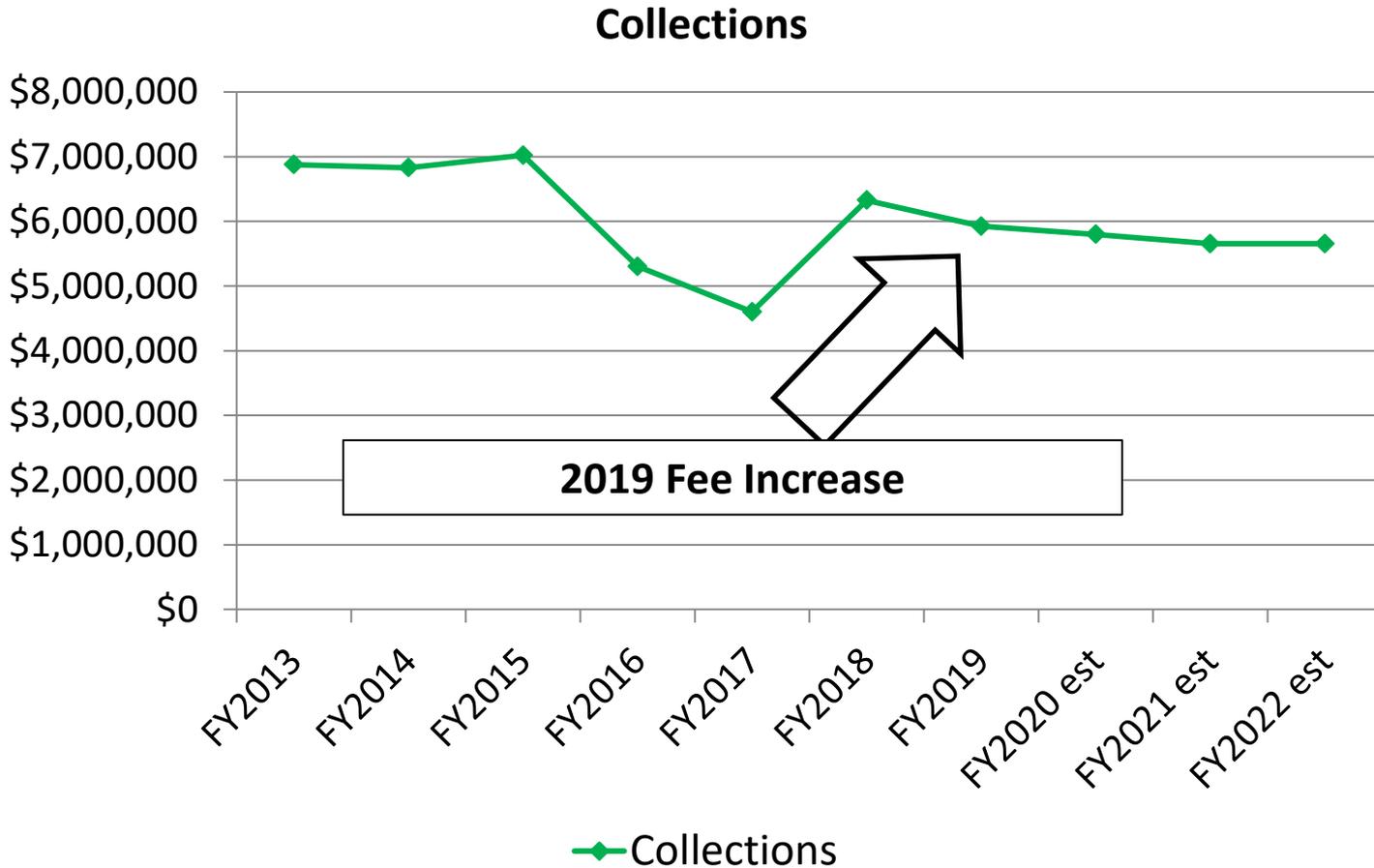
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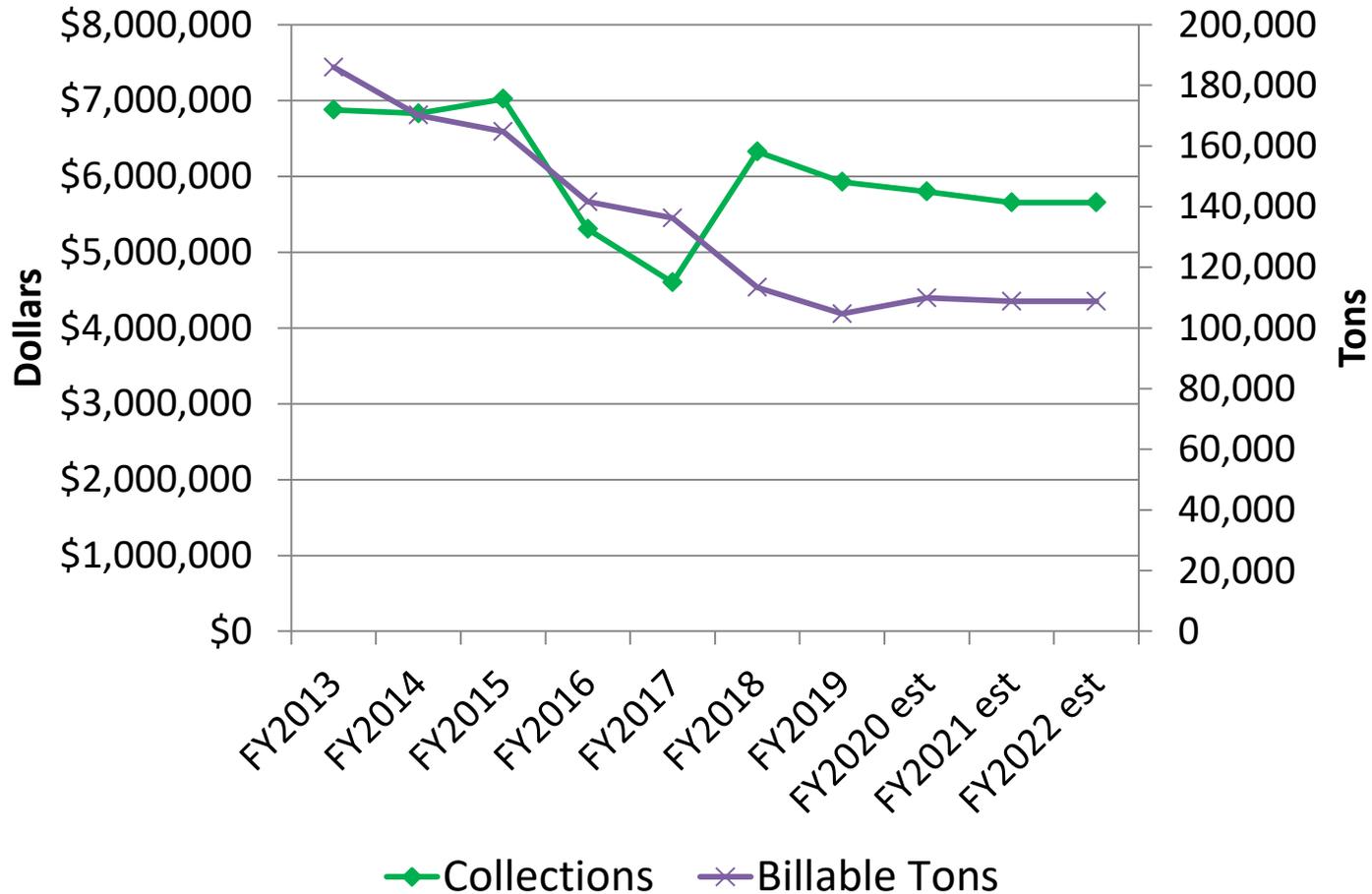
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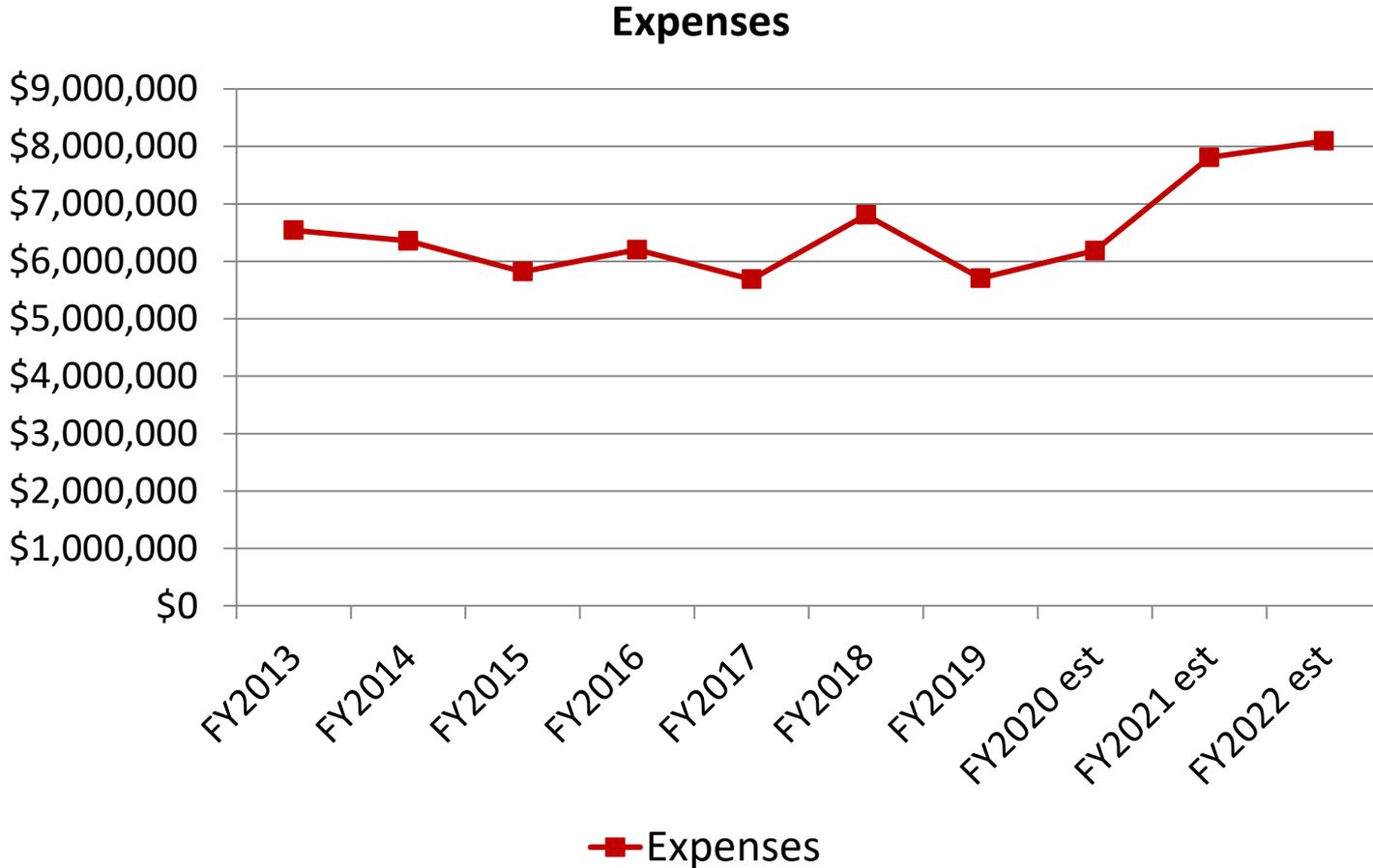
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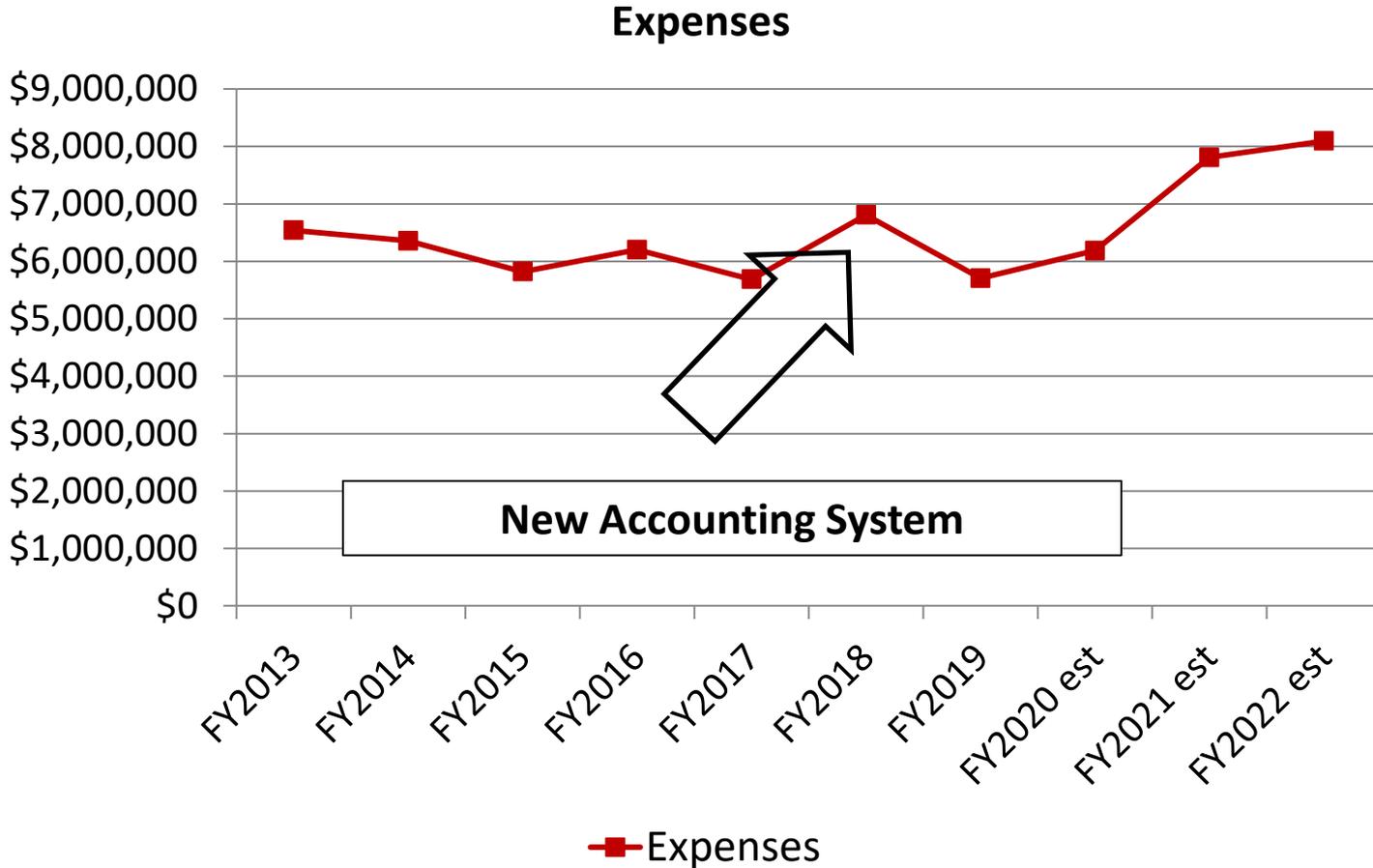
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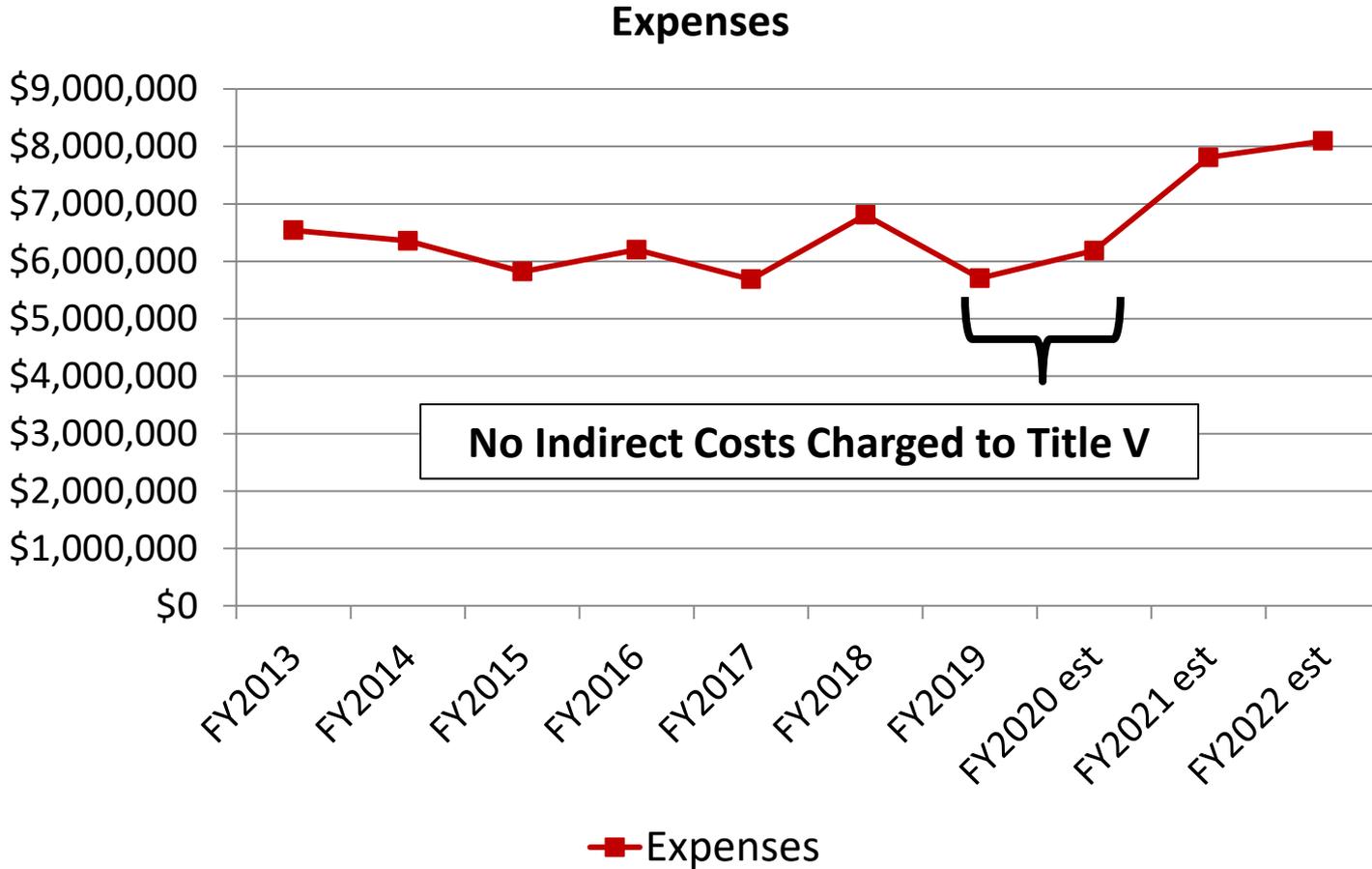
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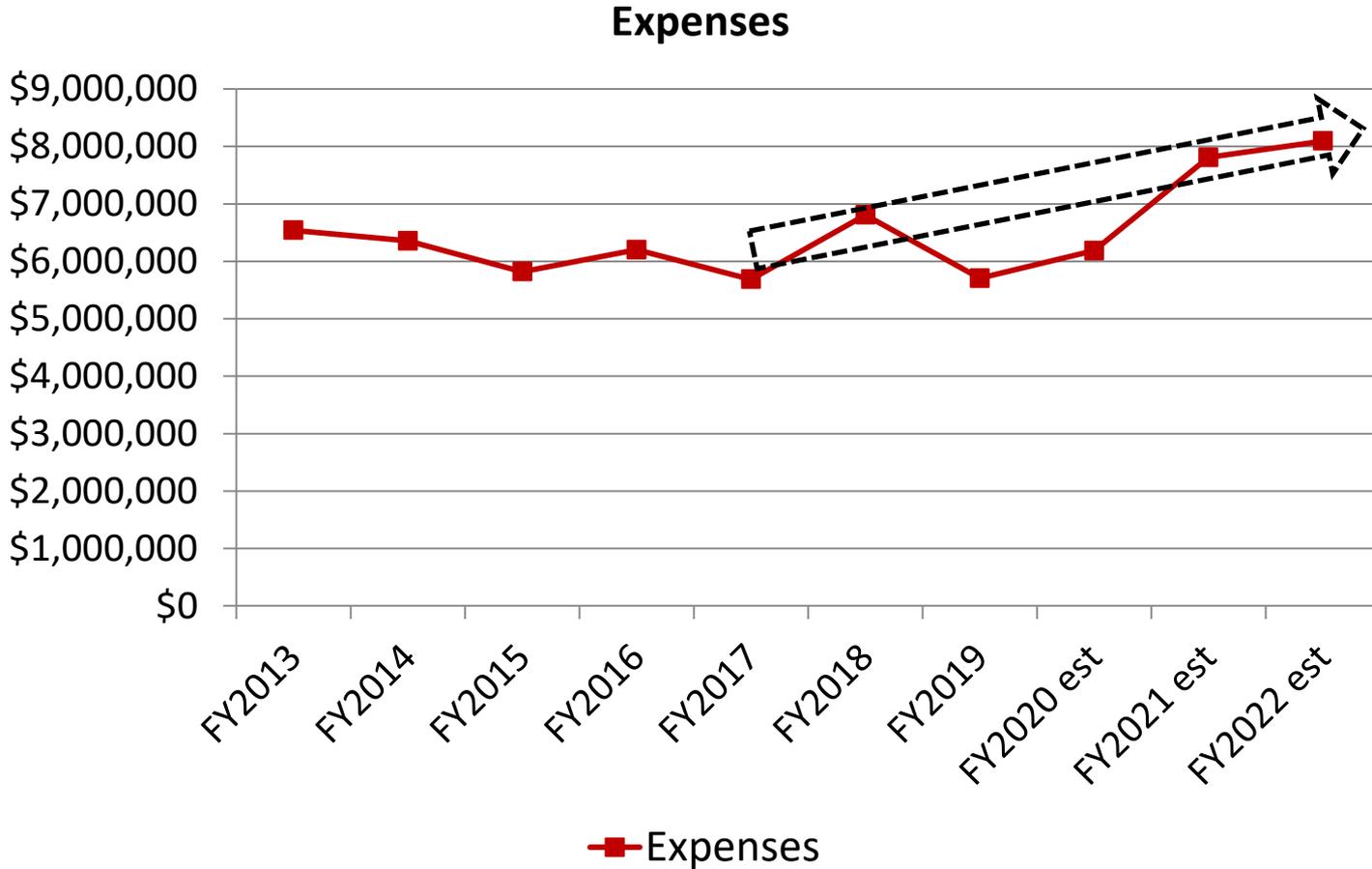
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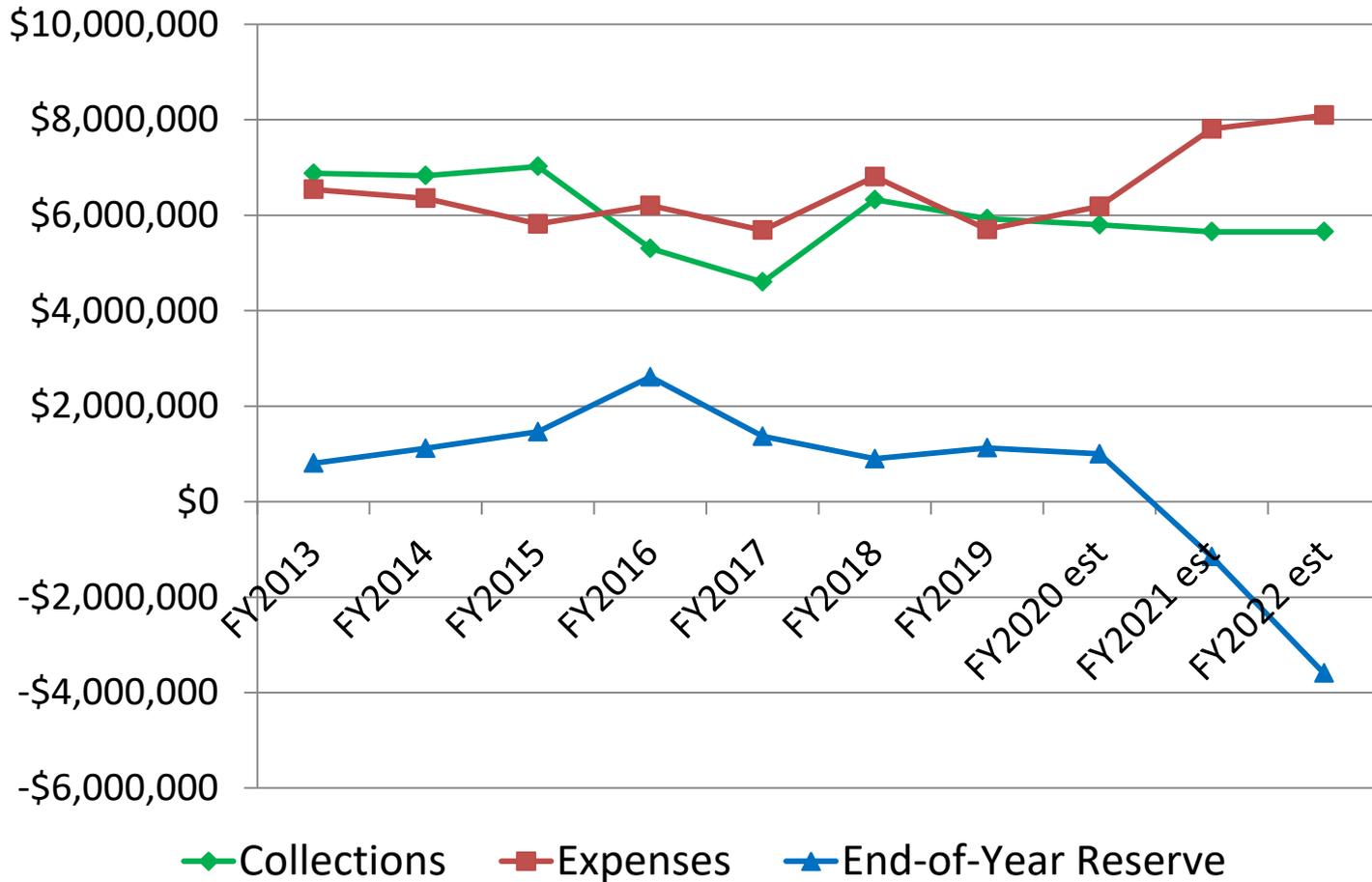
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Historical and Projected Income vs. Expenses and End-of-Year Reserve



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



Title V Fee Activity to Date

- 2016 to 2018 – APC Stakeholder Outreach
- December, 2017 – APC Board Adopted Fee Increase Effective FY2019
- May, 2019 – APC Board Approved FY2020 Workload Analysis – no fee increase
- June, 2019 – Title V Fee Listening Session
- 9/11/2019 – APC Presented TV Workload Analysis and Title V Need to Board
- 9/11/2019 – Title V Fee Listening Session
- 10/4/2019 – Public Notice with Proposed Title V Fee Rule Revisions Sent to Secretary of State for Publishing
- 10/9/2019 – APC Board Briefing on Proposed Rule

Title V Fee Basics – Current Fee System

- Each facility pays a “base fee” of \$4000
- Facilities can choose to calculate fees based on allowable emissions or actual emissions or combination of the two.
- Basis Formula
 - Calculated Fee = Emissions (tons) x Fee Rate (\$/ton)
 - Allowable \$/ton rate lower than actual \$/ton rate
 - Electric Utility Generating Units (EGUs) have higher rates than non-EGUs
- Total Fee is Base Fee + Calculated Fee
- If Total Fee is less than Minimum Fee (currently \$7500), facility pays Minimum Fee.

Current Title V Fee Rule

	Current Fee Rule
Base Fee	\$4000
Minimum Fee	\$7500
Non-EGU Allowable \$/ton	\$33.50
Non-EGU Actual \$/ton	\$53.50
EGU Allowable \$/ton	\$47.00
EGU Actual \$/ton	\$75.00
Estimated Total Collections	\$5,654,884
Estimated Expenses	\$7,810,839
(Shortfall)/Surplus	(\$2,155,955)

Proposed Title V Fee Rule

In order to minimize the impact of a fee increase during any single year, the Division is proposing to phase the fee increase over a 2-year period.

Proposed Title V Fee Rule – 2021 Fees

	Current Fee Rule	Proposed 2021 Fees
Base Fee	\$4000	\$5000
Minimum Fee	\$7500	\$9000
Non-EGU Allowable \$/ton	\$33.50	\$43.50
Non-EGU Actual \$/ton	\$53.50	\$69.50
EGU Allowable \$/ton	\$47.00	\$61.00
EGU Actual \$/ton	\$75.00	\$97.50
Estimated Total Collections	\$5,654,884	\$7,278,833
Estimated Expenses	\$7,810,839	\$7,810,839
(Shortfall)/Surplus	(\$2,155,955)	(\$542,006)

Proposed Title V Fee Rule – 2021 Fees

- The Division projects a \$1 million Title V reserve at the beginning of FY2021.
- Under the Proposed Rule:
 - A portion of the Title V reserve would be used to fund a portion of FY2021 Title V expenses.
 - The Title V reserve would drop to approximately \$467,994.
- The Air Pollution Control Board has Previously Indicated that \$1 million is an appropriate level for the Title V reserve.

Proposed Title V Fee Rule – 2022 Fees

	Current Fee Rule	Proposed 2021 Fees	Proposed 2022 Fees
Base Fee	\$4000	\$5000	\$6000
Minimum Fee	\$7500	\$9000	\$9000
Non-EGU Allowable \$/ton	\$33.50	\$43.50	\$50.00
Non-EGU Actual \$/ton	\$53.50	\$69.50	\$80.00
EGU Allowable \$/ton	\$47.00	\$61.00	\$70.00
EGU Actual \$/ton	\$75.00	\$97.50	\$112.00
Estimated Total Collections	\$5,654,884	\$7,278,833	\$8,357,400
Estimated Expenses	\$7,810,839	\$7,810,839	\$8,045,164
(Shortfall)/Surplus	(\$2,155,955)	(\$542,006)	\$312,236

Proposed Title V Fee Rule – 2022 Fees

- Under the Proposed Rule:
 - Projected 2022 income slightly higher than FY2022 expenses in order to start rebuilding the Title V reserve.
 - The Title V reserve at the end of FY2022 would projected to be \$780,230.



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Title V Fee Analysis Tool

Public Comment Process

- 10/23/2019 - Webinar on Proposed Rule and Title V Fee Analysis Tool
- 11/25/2019 – Public Hearing
 - 9:30 AM
 - William R. Snodgrass Tennessee Tower
 - 312 Rosa L. Parks Avenue
 - Conference Room D, 3rd Floor
 - Nashville, 37243
- 11/25/2019 – Public Comment Deadline
 - Mail Comments to:
 - Technical Secretary,
 - Tennessee Air Pollution Control Board
 - William R. Snodgrass Tennessee Tower
 - 312 Rosa L. Parks Avenue, 15th Floor
 - Nashville, Tennessee 37243

Title V Fee Web Page

- <https://www.tn.gov/environment/program-areas/apc-air-pollution-control-home/apc/permits-air/permit-fees/title-v-permit-fees.html>
- Or go to [tn.gov](https://www.tn.gov)/environment > Permitting > Air Permits > Permit and Annual Emission Fees > Title V Fees



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Questions