

Eliminating the Underground Storage Tank Cleanup Backlog Will Require At Least \$549 Million

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Sean Hamel



Evaluation Team

Sean Hamel, Project Lead

Michelle Beck, Senior Program Evaluator

Catherine Moga Bryant, Senior Program Evaluator

Carol Shaw, Principal Program Evaluator

Pamela L. Taylor, Program Evaluation Statistician



Overview

This evaluation found

- A large commercial tank cleanup backlog that will take an estimated 25 years and \$513 million to address
- Continued reliance on Commercial Fund by tank owners for future incidents increases North Carolina's future financial liability
- Solvency of Noncommercial Fund is in jeopardy
- Operational limitations hinder the UST Section's ability to prevent and cleanup incidents



Overview

This evaluation recommends

- Providing additional revenue to address the cleanup demands from the past
- Eliminating the use of the Commercial Fund for future incidents
- Requiring limited financial responsibility from noncommercial tank owners for future incidents
- Providing increased regulatory authority and oversight to the UST Section



Research Objectives

1. Determine if the UST program policies and operations achieve desired environmental outcomes
2. Evaluate whether current sources of funding are sufficient to meet current and future cleanup demand
3. Identify alternatives for funding and operation of the UST program



UST Evaluation: Data Collection

- Interviews with DENR administration and program staff
- Interviews and focus groups with key stakeholders
- Review of state and federal code and regulations
- Review of internal agency documents and guidance documents for UST owners
- Review of other state programs
- Review of private insurance carriers policy options
- Analysis of fiscal and operations data
- Observations of inspections, UST removal, and claims processing



Background

In 1984 the federal government mandated states regulate USTs over 1,100 gallons

- Operation, technical standards, and oversight
- Financial responsibility
 - \$500,000-\$1 million per incident
 - Financial assurance mechanisms allow owner to demonstrate financial responsibility
 - Seven federally approved financial assurance mechanisms



Background

North Carolina responded with creation of the Underground Storage Tank Program

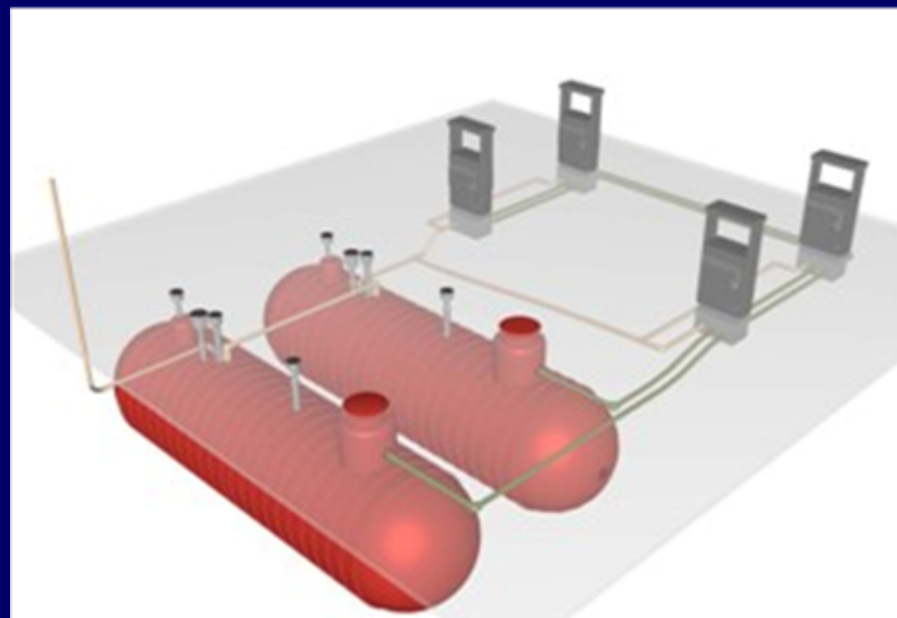
- **Commercial** Leaking Petroleum Underground Storage Tank Cleanup Fund
- **Noncommercial** Leaking Petroleum Underground Storage Tank Cleanup Fund



Commercial USTs

A commercial UST is a federally regulated underground storage tank system, with underground piping connected to a tank that has at least 10% of its combined volume underground

- 29,084 in North Carolina
- 54% installed over 20 years ago



Commercial Fund

- Federal government requires owners demonstrate financial responsibility
- Federally-approved state assurance fund
- Access to fund requires owner financial responsibility
 - Operational compliance
 - Annual \$420 per tank fee
 - Demonstrate ability to pay deductible
- In Fiscal Year 2008-09 fund received \$29.9 Million in revenue

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Noncommercial USTs

Non-regulated underground storage tanks include farm or residential motor fuel tanks and home heating oil tanks with a capacity of 1,100 gallons or less

- Unknown number of noncommercial tanks
- Not federally regulated



Noncommercial Fund

- Reimburses owners for cleanup costs and third-party liability resulting from a petroleum spill or leak from a noncommercial underground storage tank
- State pays for cleanup costs; owners only pay for tank removal
- In Fiscal Year 2008-09 the fund received \$6.2 million in revenue



Status of Cleanup in North Carolina

Since 1988 North Carolina has spent \$543 million to cleanup 16,172 incidents

Commercial Fund

- \$441 million spent
- 10,699 closed incidents

Noncommercial Fund

- \$102 million spent
- 5,473 closed incidents

8,610 Commercial and Noncommercial incidents await cleanup



Findings

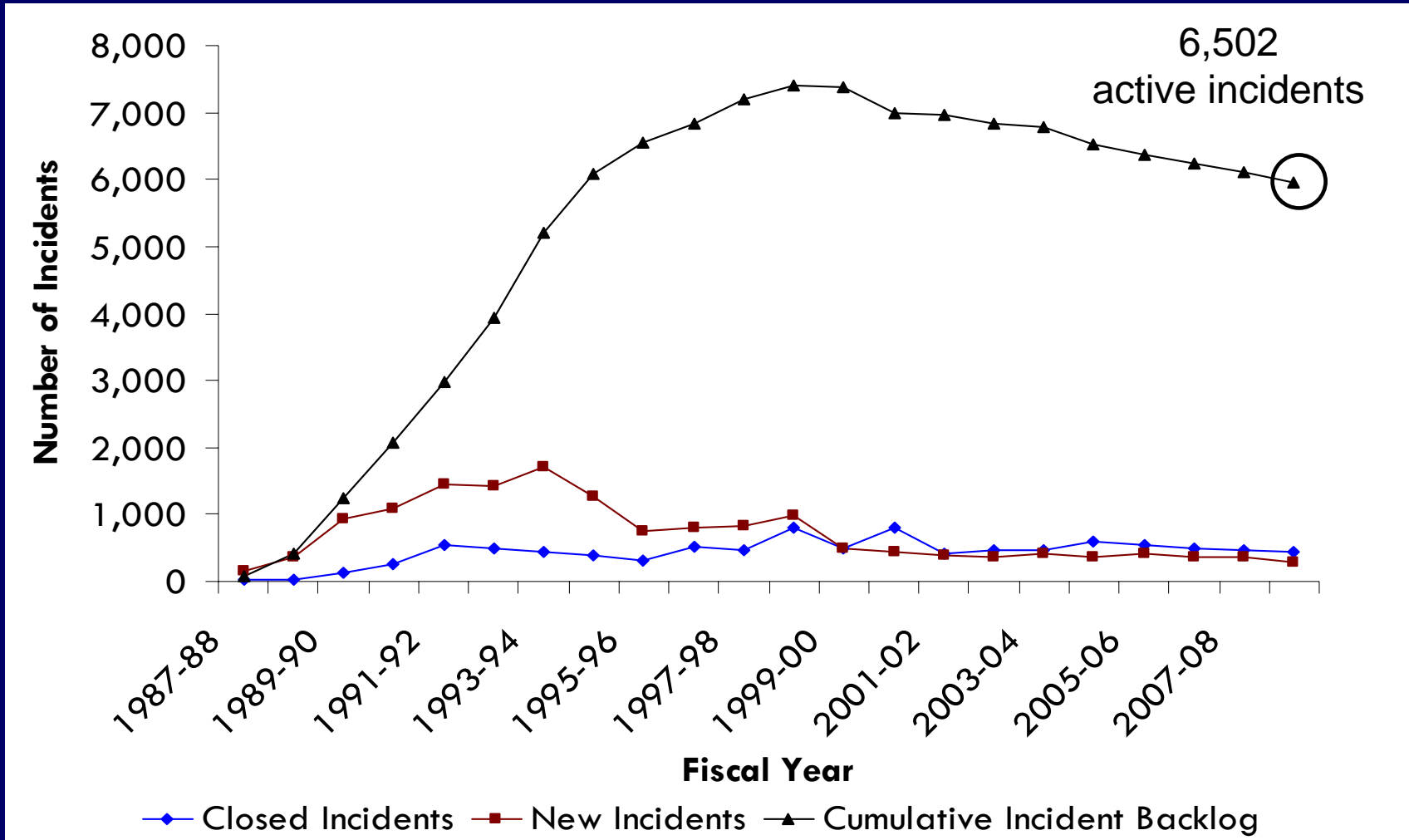


Finding 1

North Carolina's commercial cleanup backlog will require at least \$513 million and take 25 years to cleanup



North Carolina has a large commercial backlog

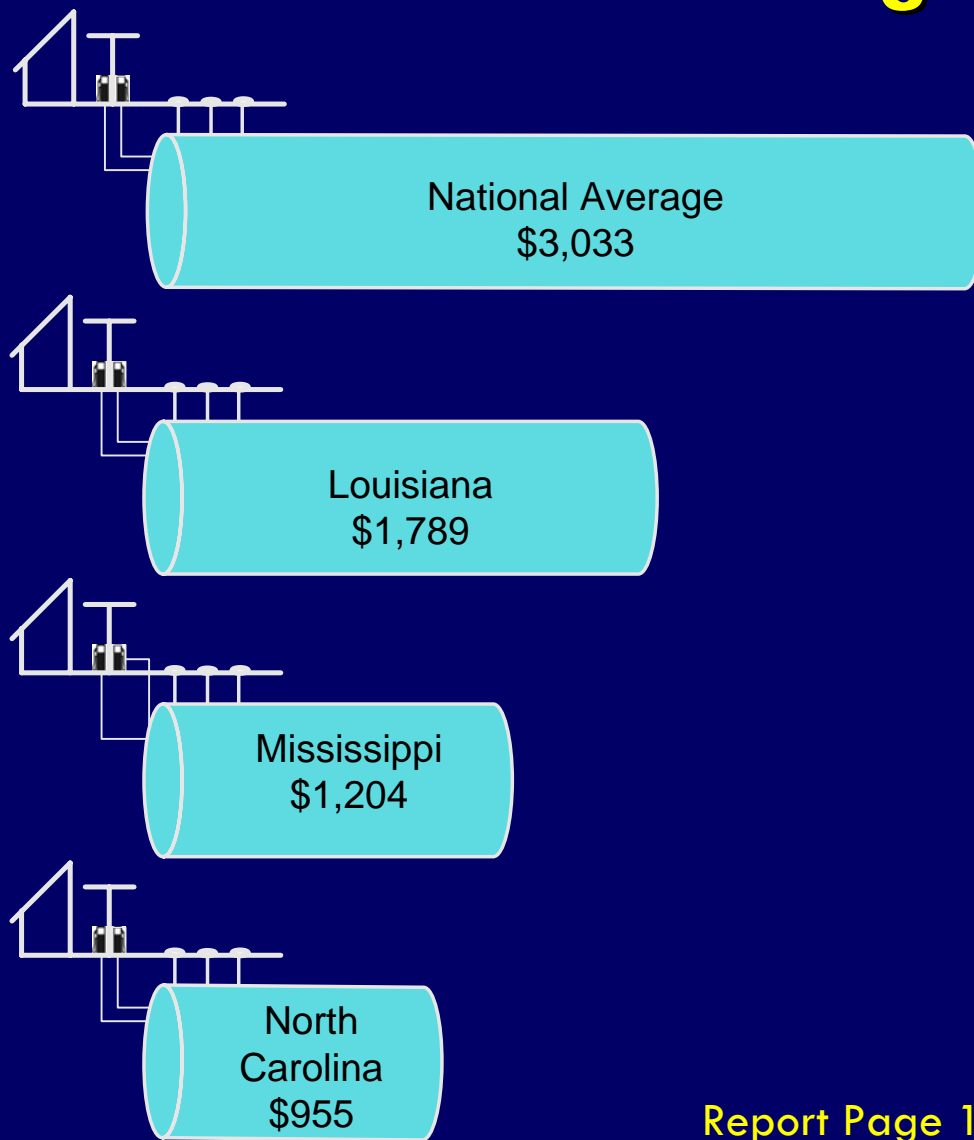


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Commercial Fund has not accumulated sufficient revenue to meet the state's large cleanup demand

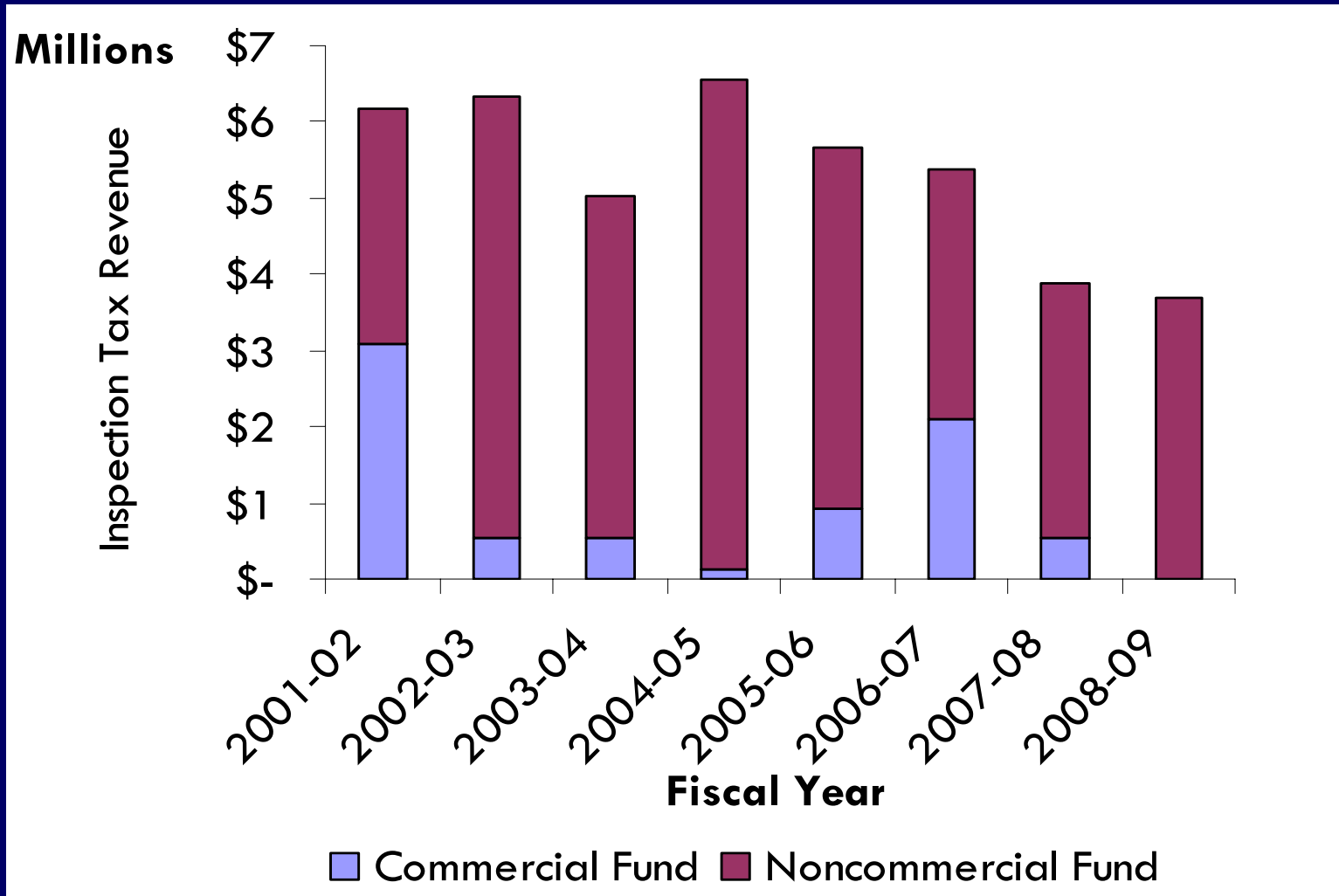
Per Tank Assurance
Fund Revenue per 1,000
Population



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Proceeds to the Commercial Fund from the inspection tax have diminished



Session law that restrains the pace of cleanup increases the state's financial liability

- Pace restrained by fund availability
- When funds are available incidents are cleaned up based on risk
- Incidents waiting to be cleaned up can lose their responsible party
- State assumes full responsibility when owners cannot pay



Finding 2

Commercial tank owners' continued reliance on the Commercial Fund increases North Carolina's liability for future cleanup costs



State assurance funds are not the only means owners have for meeting financial responsibility requirements

- Six other federally permissible assurance mechanisms exist
- North Carolina chose a state assurance fund
- Many states do not have assurance funds



When state assurance funds are not available, insurance policies are the most common used method for meeting financial responsibility requirements

- Insurance policies are risk based
- Transfer financial responsibility for spill and leak prevention directly to UST owners
- Research suggests a relationship between risk-based pricing and incident reduction

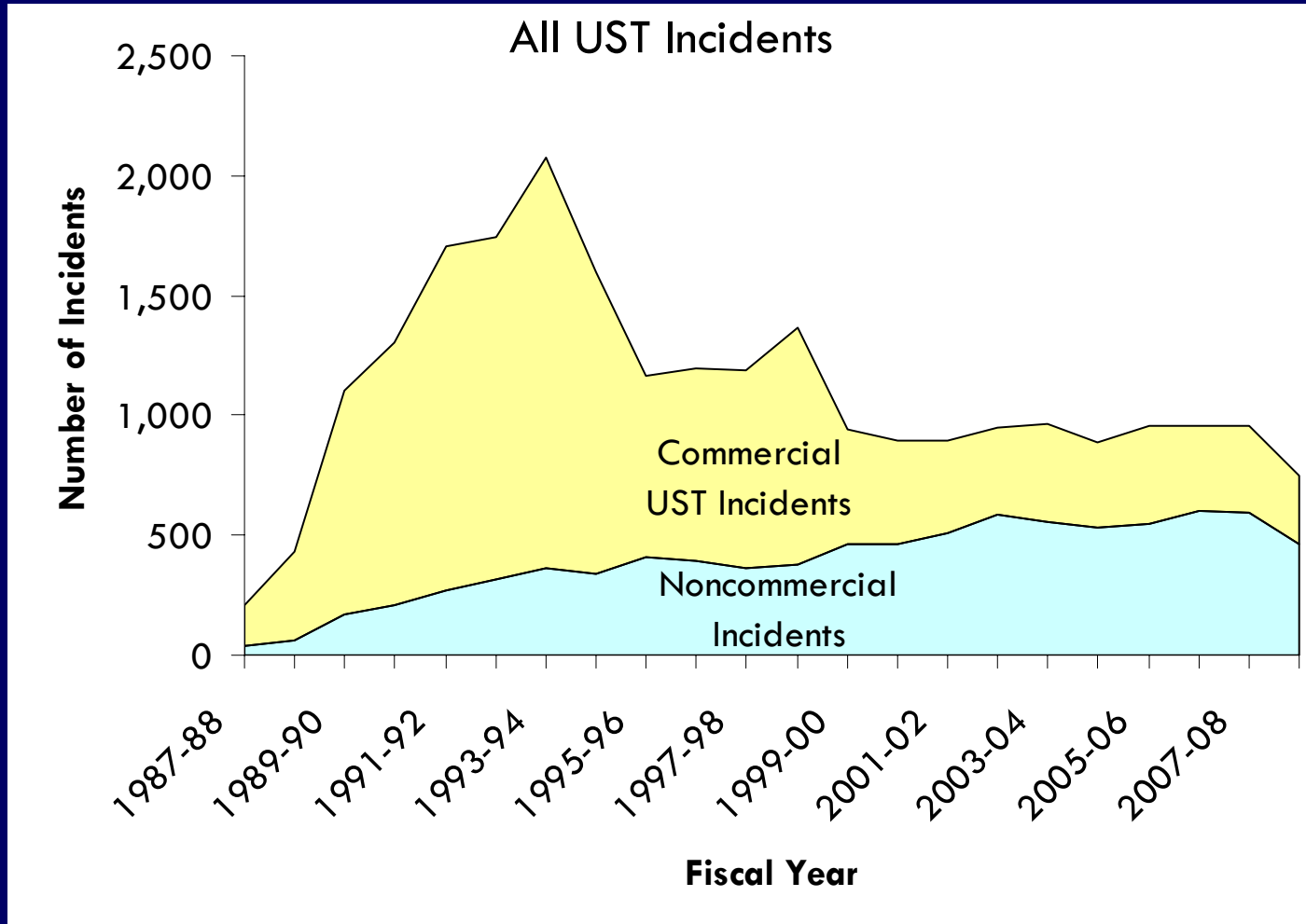


Finding 3

The solvency of the Noncommercial Fund is in jeopardy because North Carolina pays all cleanup costs for a growing number of incidents



The number of noncommercial incidents is growing



Other states with noncommercial tank assistance require owners to pay something

State	Deductible	Coverage Limit
North Carolina	\$0	\$1,000,000
Maryland	\$500	\$20,000
New Hampshire	\$100	\$500,000
Pennsylvania	\$1,000	\$5,000
Vermont	\$250	\$1,000,000
Virginia	\$500	\$1,000,000
Wisconsin	25%	\$7,500



Finding 4

Operational limitations hinder the UST Section's ability to prevent incidents and clean up incidents

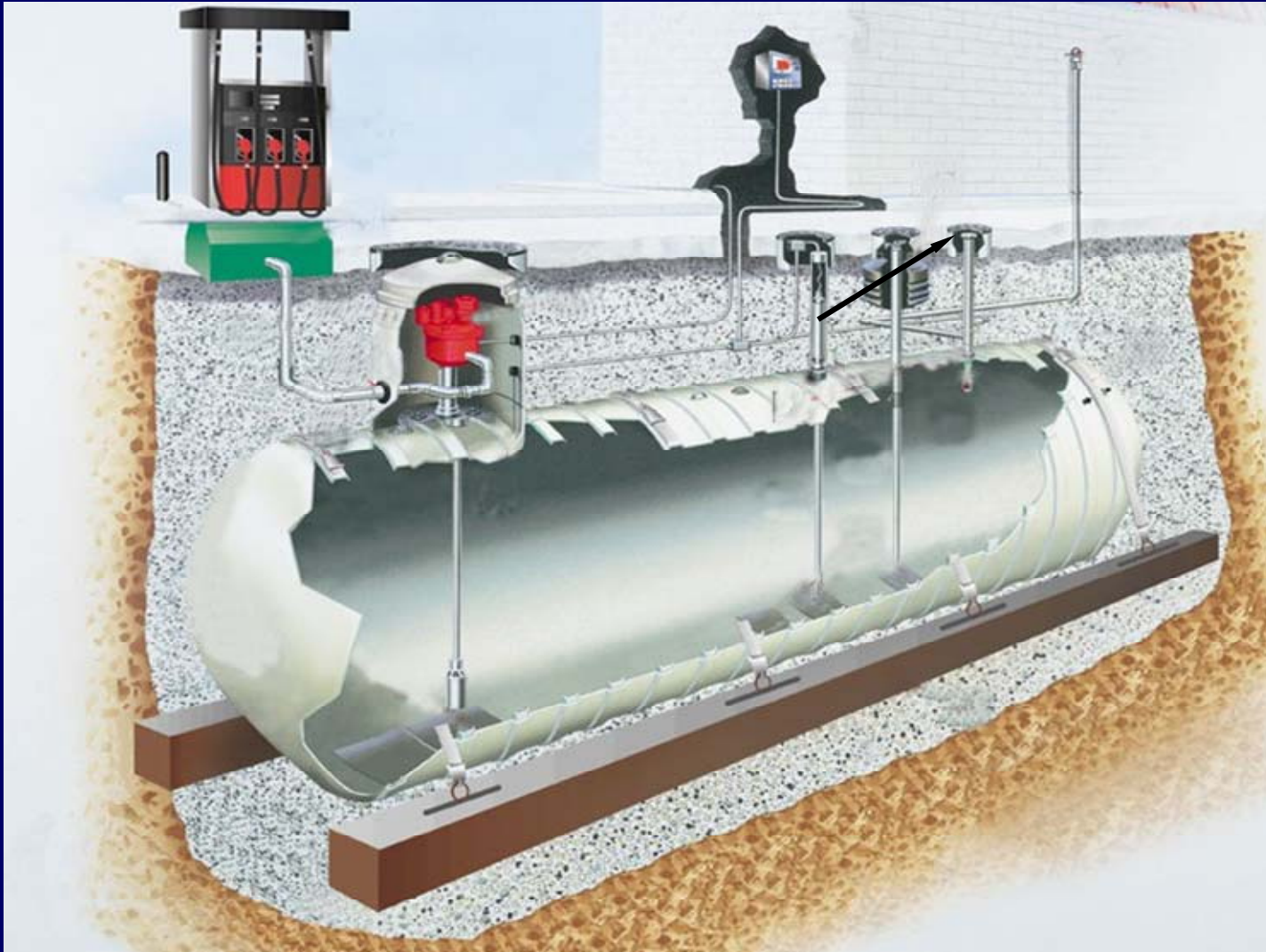


Operational limitations

- Reliance on a non-integrated information system hinders UST Section operations
 - 17 different databases
 - Daily activities rely on paper-based system
 - Timely access to information is a challenge
- No authority to require tank owners to participate in education and training



Recommendations



Recommendation 1. Increase the motor fuel and kerosene inspection tax by 3/16 of one cent and reallocate revenue between the Commercial and Noncommercial Funds

- Accelerating the pace of cleanup will allow the UST Program to address the backlog more quickly
- Reallocation ensures sufficient revenue will be available where demand is greatest
- Would eliminate the required transfer from the Commercial to the Noncommercial Fund



Increasing the Inspections Tax

Motor Fuel and Kerosene Inspection Tax	Current	Proposed
Tax Rate	1 / 4 of one cent	7 / 16 of one cent
Total Annual Revenue from Inspection Tax	\$14,500,000	\$25,375,000
Less Allocations to Departments of Agriculture and Revenue	(\$10,683,547)	(\$10,683,547)
Net Allocation to Commercial and Noncommercial Funds	\$3,816,453	\$14,691,453



Changing the allocation

Inspection Tax Allocation	Commercial Fund	Noncommercial Fund	Totals
Current Allocation	1/2	1/2	100%
Current Revenue	\$1,908,227	\$1,908,227	\$3,816,453
Proposed Allocation	2/3	1/3	100%
Proposed Revenue	\$9,794,302	\$4,897,151	\$14,691,453
Proposed Revenue Increase	\$7,886,076	\$2,988,925	\$10,875,000



Recommendation 2. Require commercial tank owners to obtain other financial assurance mechanisms

- Minimizes the state's liability for cleaning up future UST incidents
- Would ensure that coverage for meeting federal financial responsibility requirements is risk based



Recommendation 2. Require commercial tank owners to obtain other financial assurance mechanisms

Transition Period	Trust Fund Coverage	Private Insurance Coverage	Operating Fee
Year 1	\$1,000,000	No coverage	\$420
Year 2	\$ 800,000	\$ 200,000	\$335
Year 3	\$ 600,000	\$ 400,000	\$270
Year 4	\$ 400,000	\$ 600,000	\$215
Year 5	\$ 200,000	\$ 800,000	\$175
Year 6	No coverage	\$1,000,000	\$175



Recommendation 3. Require noncommercial tank owners pay 20% of cleanup costs up to a maximum of \$5,000 per incident

- Protects the solvency of the Noncommercial Fund
- Ensures the fund provides support for catastrophic incidents
- Would have saved \$9 million that could have otherwise been used for additional noncommercial cleanup



Recommendation 4. Provide increased regulatory authority and policy direction to the UST Section to improve program operations

- Authorize expenditure of funds for a time-limited position to support the completion of the integrated data management system
- Require education and training for commercial tank owners in order to receive an operating permit
- Require annual report to include the effects of increased inspection frequency on leak and spill prevention



Evaluation Summary

- Authorizing additional revenue will expedite the cleanup of the commercial backlog
- Increasing the financial responsibility of commercial and noncommercial tank owners will protect North Carolina's growing future liabilities
- The agency's response is provided in the back of the report



Report Available Online

[www.ncleg.net/PED/Reports/Topics/
EnvironmentandNaturalResources.html](http://www.ncleg.net/PED/Reports/Topics/EnvironmentandNaturalResources.html)

Sean P. Hamel

sean.hamel@ncleg.net

