



North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

John E. Skvarla, III  
Secretary

**MEMORANDUM**

TO: ENVIRONMENTAL REVIEW COMMISSION  
The Honorable Brent Jackson, Chair  
The Honorable Ruth Samuelson, Co-Chair  
The Honorable Mike Hager, Co-Chair

Senate Appropriations Subcommittee on Natural and Economic Resources  
The Honorable Brent Jackson, Co-Chair  
The Honorable Andrew C. Brock, Co-Chair

House Appropriations Subcommittee on Natural and Economic Resources  
The Honorable Roger West, Co-Chair  
The Honorable Tom Murry, Co-Chair

Fiscal Research Division  
Jennifer Hoffman  
Timothy Dale

FROM: Neal Robbins, Director of Legislative Affairs

SUBJECT: 2013 Report on the Status of Leaking Petroleum Underground Storage Tanks

DATE: November 1, 2013

Pursuant to G.S. 143-215.94M; S.L. 2002-148, Sec 7; S.L. 2003-340, Sec 2 The Secretary shall present an annual report to the Environmental Review Commission, the Fiscal Research Division, the Senate Appropriations Subcommittee on Natural and Economic Resources, and the House Appropriations Subcommittee on Natural and Economic Resources which shall include at least the following:

- (1) A list of all discharges or releases of petroleum from underground storage tanks.
- (2) A list of all cleanups requiring State funding through the Noncommercial Fund and a comprehensive budget to complete such cleanups.
- (3) A list of all cleanups undertaken by tank owners or operators and the status of these cleanups.
- (4) A statement of receipts and disbursements for both the Commercial Fund and the Noncommercial Fund.

- (5) A statement of all claims against both the Commercial Fund and the Noncommercial Fund, including claims paid, claims denied, pending claims, anticipated claims, and any other obligations.
- (6) The adequacy of both the Commercial Fund and the Noncommercial Fund to carry out the purposes of this Part together with any recommendations as to measures that may be necessary to assure the continued solvency of the Commercial Fund and the Noncommercial Fund.

Please consider the attached as the formal submission of these reports. If you have any questions or need additional information, please contact me by phone at (919) 707-8618 or via e-mail at [neal.robbins@ncdenr.gov](mailto:neal.robbins@ncdenr.gov).

cc: John E. Skvarla, III, Secretary, NCDENR  
Mitch Gillespie, Assistant Secretary for Environment, NCDENR  
Dexter Matthews, Director, DWM, NCDENR

**Annual Report to the  
Environmental Review Commission  
North Carolina General Assembly**

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**The Status of Leaking Petroleum Underground Storage  
Tanks, the State Cleanup Funds**

**Fiscal Year 2013 (July 1, 2012 to June 30, 2013)**

**N.C. Division of Waste Management  
Underground Storage Tank Section**

**November 1, 2013**



**NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES**

**Pat McCrory**

**Governor**

**John E. Skvarla, III**

**Secretary**

**N.C. Department of Environment and Natural Resources**

**Dexter R. Matthews**

**Director**

**N.C. Division of Waste Management**

**NCDENR**

**N.C. Division of Waste Management**

**Underground Storage Tank (UST) Section**

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## **Table of Contents**

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<b>Executive Summary, Underground Storage Tank Cleanup Funds FY 2013</b>	Page 4
<b>Cleanup Fund Management</b>	Page 6
<b>Commercial Fund Status</b>	Page 6
<b>Noncommercial Fund Status</b>	Page 7
<b>Recommendations</b>	Page 7

## EXECUTIVE SUMMARY – UNDERGROUND STORAGE TANK (UST) CLEANUP FUNDS FY 2013

North Carolina's underground storage tank program is administered by the Division of Waste Management's Underground Storage Tank (UST) Section in the North Carolina Department of Environment and Natural Resources (DENR). The section enforces UST regulations and manages funds used to perform cleanups of petroleum UST discharges or releases (UST incidents). The program was initiated in 1988 in response to growing reports of USTs leaking petroleum into soil and groundwater supplies. Funding for the program is provided by the Commercial and Noncommercial Cleanup Funds, the federal Leaking Underground Storage Tank (LUST) prevention grant, and the federal LUST cleanup grant.

The Commercial and Noncommercial Cleanup Funds are also used to provide safe alternatives to drinking water wells that have been contaminated by petroleum releases from USTs. In FY 2013, the UST program provided alternative water supplies to replace 121 contaminated water supply wells (some private wells and others serving public water systems).

Lists of all discharges or releases from underground storage tanks, cleanups requiring state funding through the Noncommercial Fund, and all Responsible Party (RP) cleanups and status updates are available from the Division of Waste Management.

### **FY 2013 Commercial Fund Activity (July 1, 2012 through June 30, 2013)**

	<b>Amount</b>	<b>Totals</b>
<b>Fund Balance on 7/1/2012</b>	\$48,137,956	<b>\$48,137,956</b>
<b>Revenues</b>		<b>\$26,316,112</b>
Motor Fuel & Gasoline Excise Tax	\$14,937,599	
Operating Fees	\$10,611,636	
State Lead Cost Recovery	\$574,300	
Interest	\$192,577	
Loan Fund Collection and Interest	\$ 0	
Transfer - Bernard Allen Trust Fund	\$ 0	
<b>Expenditures</b>		<b>\$33,057,379</b>
Reimbursements	\$26,559,858	
State-Lead Contracting & Laboratory	\$2,536,578	
Program Administration	\$3,960,943	
<b>Transfers from Fund</b>		<b>\$90,573</b>
Transfer to Noncommercial Fund	\$ 0	
Transfer to Department of Agriculture	\$90,000	
Transfer to Federal LUST Program (cost recovery)	\$573	
<b>Fund Balance on 6/30/2013</b>		<b>\$41,306,116</b>
<b>Estimated Obligations<sup>1</sup></b>		<b>\$45,169,440</b>
RP-lead cleanup	(\$36,683,192)	
State-lead cleanup	(\$6,183,288)	
Pre-approved non-directed actions	(\$2,302,960)	
<b>Estimated Obligated Balance 06/30/2013</b>		<b>(\$3,863,324)</b>

1. Estimated obligations include estimates of un-reimbursed costs for tasks not requiring pre-approval that were incurred prior to implementation of Session Law 2004-124; outstanding un-reimbursed costs for pre-approved directed tasks; requested reimbursement costs for claims under review; approved costs for claims awaiting reimbursement; unreimbursed costs for approved non-directed tasks; and remaining program expenses.

**FY 2013 Noncommercial Fund Activity  
(July 1, 2012 through June 30, 2013)**

	Amount	Totals
<b>Fund Balance on 7/1/2012</b>		<b>\$60,801</b>
<b>Revenues</b>		<b>\$7,272,018</b>
Motor Fuel & Gasoline Excise Tax	\$2,360,025	
Interest	\$28,197	
Appropriations	\$4,880,000	
Cost Recovery	\$3,796	
<b>Expenditures</b>		<b>\$7,047,459</b>
Total Claims and Contracted Cleanups	\$5,494,840	
Administrative Costs	\$1,552,619	
<b>Fund Balance on 6/30/2013</b>		<b>\$285,360</b>
<b>Estimated Obligations<sup>1</sup></b>		<b>\$5,149,640</b>
<b>Estimated Obligated Balance 6/30/13</b>		<b>(\$4,864,280)</b>

1. Estimated obligations include estimates of un-reimbursed costs for tasks not requiring pre-approval that were incurred prior to implementation of Session Law 2004-124, outstanding un-reimbursed costs for pre-approved directed tasks, requested reimbursement costs for claims under review, approved costs for claims awaiting reimbursement, unreimbursed costs for approved non-directed tasks, and remaining program administration costs.

**Summary of Key Statistics for the Entire History of the UST  
Program (July 1, 1988 to June 30, 2013)**

Commercial Fund Revenues	\$ 645,783,496
Commercial Fund Expenditures	\$ 604,448,291
Noncommercial Fund Revenues	\$ 144,966,019
Noncommercial Fund Expenditures	\$ 144,649,643
Petroleum UST Releases – Reported	
Commercial	18,316
Noncommercial	8,958
Total	27,274
Petroleum UST Releases - Closed Out	
Commercial	12,457
Noncommercial	6,945
Total	19,402
<b>FY 2013 Activity</b>	
Petroleum UST Releases - Reported	
Commercial	331
Noncommercial	483
Petroleum UST Releases – Closed Out	
Commercial	497
Noncommercial	433

## **Cleanup Fund Management**

The Division of Waste Management's UST Section manages two funds to clean up environmental contamination from petroleum underground storage tank (UST) releases. The Commercial Cleanup Fund pays the costs of cleanups of releases of petroleum from commercial USTs, which are typically regulated gasoline station tanks or heating oil tanks of greater than 1100 gallons capacity. The owners of commercial USTs pay annual operating fees into the Commercial Cleanup Fund and also pay deductible amounts toward the costs of assessments and cleanups of petroleum releases. The Noncommercial Cleanup Fund pays the costs of cleanups of releases of petroleum from unregulated USTs such as home heating oil tanks and smaller farm tanks. The owners of noncommercial USTs do not pay fees or deductible amounts—they pay only the cost of removing the leaking tanks. The entire cost of assessment and cleanup is paid by the Noncommercial Cleanup Fund. New legislation for FY 2014 has added a \$1,000 deductible and 10 percent co-pay up to a combined maximum owner share of \$2,000 for cleanup expenses.

In FY 2013, the UST Section managed the cleanup funds in accordance with the requirements of Session Law 2004-124, which directed the department to give priority to cleanup of releases in emergency situations and to those that pose the greatest risks to human health and the environment. The session law also directed the division to order non-emergency work only if the costs could be reimbursed by the appropriate cleanup fund within 90 days of claim approval. To meet these legislative requirements, the division uses a Risk, Rank and Abatement (RRA) scoring system that quantifies the relative risks of all releases, allowing the division to direct work at the highest risk incidents and reimburse the costs of that work within 90 days. Every week the division reviews balances, expenditures and obligations of both the Commercial and Noncommercial Funds, and periodically adjusts the RRA score threshold in order to direct as much cleanup work as resources will allow. By the end of FY 2013 and continuing through FY 2013, the program was able to direct cleanup activities at all high-risk commercial UST releases and at many intermediate-risk releases. The program could direct cleanup activities at about two percent of all high-risk noncommercial UST releases.

## **Commercial Fund Status**

On June 30, 2013, the Commercial Fund balance was \$41,306,116 with pending estimated obligations of \$45,169,440.

### **Estimated Costs of Clean Up**

The division can estimate the costs of cleaning up all known commercial UST releases by multiplying the average cost to the Fund per release (\$120,173 for FY 2013) by the number of known commercial releases needing cleanup (5,761). The result is a total future obligation of approximately \$692 million, an amount that includes about \$45 million obligated for cleanups already underway. The number of reported new releases has decreased sharply in recent years, likely due to increased inspection and prevention measures implemented in 2008. In FY2012 and FY2013 an average of approximately 290 new commercial UST releases per year were discovered and reported. This trend suggests an additional \$35 million per year will potentially be added to overall obligations.

## **Noncommercial Fund Status**

In the FY 2012 budget bill, the General Assembly made a one-time appropriation of \$4.88 million to the Noncommercial Cleanup Fund. On June 30, 2013, the Noncommercial Fund cash balance was \$285,360 with pending estimated obligations of \$5,149,640. The estimated obligated Noncommercial Cleanup Fund balance at the end of FY 2013 is (- \$4,864,280).

### **Estimated Costs to Clean Up**

The department can estimate the costs of cleaning up all known Noncommercial UST releases by multiplying the average cost to the Fund per release (\$14,955 for FY3013) by the number of known noncommercial releases needing cleanup (1975). The result is a total future obligation of approximately



\$29.5 million, an amount that includes about \$5.2 million obligated for cleanups already underway. The number of reported new releases has decreased sharply in recent years. In FY2012 and FY2013 an average of approximately 425 new noncommercial UST releases per year were discovered and reported. In FY 2013, the owners of noncommercial USTs paid only the costs of removing tanks and did not pay any deductible amount toward the costs of cleanups. New legislation for FY 2014 has added a \$1,000 deductible and 10 percent co-pay up to a combined maximum owner share of \$2,000 for cleanup expenses.

## **Tables and Figures**

**Table 1 - UST Releases Since Program Inception (FY 1989 - FY 2013)**

<b>Commercial UST Releases</b>		<b>Noncommercial UST Releases</b>	
<b>Releases Reported</b>	<b>18,316</b>	<b>Releases Reported</b>	<b>8,958</b>
RP-Lead	16,824	RP-Lead	8,722
State-Lead	1,492	State-Lead	236
<b>Cleaned Up to No Further Action</b>	<b>12,457</b>	<b>Cleaned Up to No Further Action</b>	<b>6,945</b>
RP-Lead	11,834	RP-Lead	6,811
State-Lead	623	State-Lead	134
<b>Ongoing Cleanups</b>	<b>3,433</b>	<b>Ongoing Cleanups</b>	<b>1,107</b>
RP-Lead	2,670	RP-Lead	1031
State-Lead	763	State-Lead	76
<b>No Action Currently Being Taken</b>	<b>2,328</b>	<b>No Action Currently Being Taken</b>	<b>868</b>
RP-Lead	2,248	RP-Lead	845
State-Lead	80	State-Lead	23

Figure 3 - Commercial Fund Balance and Claims Pending & Obligations

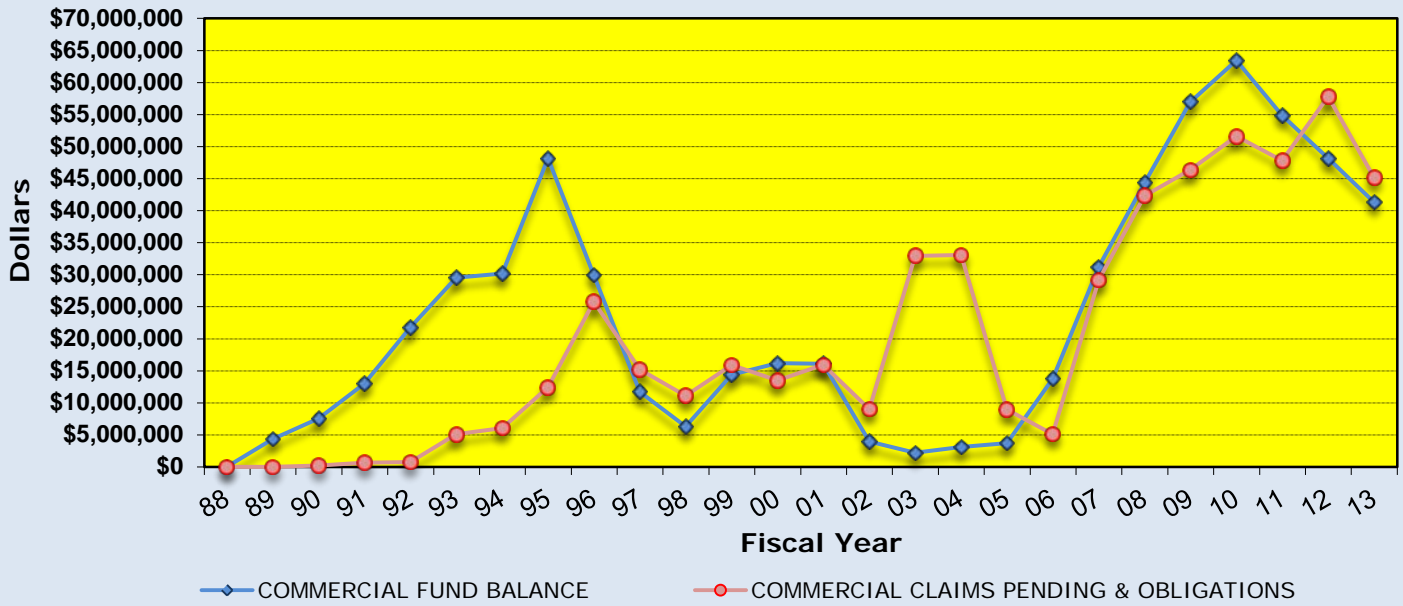


Figure 4 - Commercial Fund Balance Minus Claims Pending & Obligations



**Table 2**  
**Receipts, Disbursements and Program Expenses for the Commercial Fund**  
**Since Program Inception**

Fiscal Year	Receipts	Disbursements <sup>1</sup>	Legislatively Allowed Program Expenses
FY 1989	\$ 2,337,685	\$ 14,768	
FY 1990	5,773,632	79,080	\$ 201,255
FY 1991	7,330,573	1,616,760	547,595
FY 1992	13,484,008	4,409,229	517,221
FY 1993	18,032,784	9,651,948	601,687
FY 1994	24,438,966	22,904,802	694,424
FY 1995	56,037,135 <sup>2</sup>	37,405,510	666,270
FY 1996	28,178,768	44,060,639	2,322,632
FY 1997	28,564,034	44,163,273	2,623,339
FY 1998	27,291,220	30,267,392	2,530,036
FY 1999	26,783,344	16,104,152	2,567,668
FY 2000	27,178,623	22,820,069 <sup>3</sup>	2,579,540
FY 2001	27,240,303	24,566,132 <sup>4</sup>	2,730,236
FY 2002	27,124,210	36,872,426	2,397,264
FY 2003	27,055,759	26,498,565	2,221,851
FY 2004	26,934,685	23,514,179 <sup>5</sup>	2,527,451
FY 2005	50,255,908 <sup>7</sup>	46,966,083 <sup>6</sup>	2,654,447
FY 2006	28,143,119	15,474,991 <sup>8</sup>	2,636,228
FY 2007	27,564,837	7,372,403 <sup>9</sup>	2,725,418
FY 2008	27,458,790	11,511,344 <sup>10</sup>	2,859,460
FY 2009	31,026,131	15,007,590 <sup>11</sup>	3,380,143
FY 2010	27,969,400	17,760,225 <sup>12</sup>	3,703,143
FY 2011	26,951,504	31,697,736 <sup>13</sup>	3,859,161
FY 2012	26,311,956	29,132,749	3,881,825
FY 2013	26,316,112	29,187,009	3,960,943
<b>TOTAL</b>	<b>\$645,783,496</b>	<b>\$549,059,054</b>	<b>\$ 55,389,237</b>

1. Does not include program expenses.
2. Commercial receipts for FY 1995 included \$31,288,889 that was transferred from the Groundwater Protection Loan Fund.
3. Adjustment due to a transfer from the Commercial Fund to the Federal Trust Fund of \$288,117 as a clean-up expenditure rather than as a program expense.
4. \$33,866 transferred to Federal Trust Fund as a clean-up expenditure.
5. Includes transfer of \$2,036,932 from Commercial to Noncommercial Trust Funds per GS 119.18(b); transfer of \$90,000 to Department of Agriculture and Consumer Services; and transfer of \$452,722 to Federal Trust Fund as a clean-up expenditure.
6. Includes transfer of \$43,150,730 from Commercial to Noncommercial Trust Fund per GS 119.18(b). Transfer from Department of Agriculture and Consumer Services of \$38,702 to Federal Trust Fund.
7. Includes additional revenue from the 1-year 1.1 cent per gallon excise tax or \$19 million to the Trust Fund.
8. Includes \$1,922,601 transfer to Noncommercial Fund, \$90,000 transfer to Department of Agriculture and Consumer Services, and \$30,016 transfer to repay Federal Trust Fund for State Lead program expenses.
9. Includes transfer to Noncommercial Fund of \$598,935 and disbursement from the Commercial Fund to the Department of Agriculture and Consumer Services (\$90,000) and Federal LUST Grant (\$108,904).
10. Includes transfer to Noncommercial Fund of \$1,381,848, and disbursement from the Commercial Fund to the Department of Agriculture and Consumer Services (\$90,000), and Federal LUST Grant (\$53,752).
11. Includes transfer to Noncommercial Fund of \$1,004,895, and disbursement from the Commercial Fund to the Department of Agriculture and Consumer Services (\$90,000).
12. Includes disbursement to Department of Agriculture and Consumer Services of \$90,000.
13. Includes disbursements to Department of Agriculture and Consumer Services (\$90,000) and legislatively mandated transfer of interest (\$614,239.29).

**Table 3 – Claims Against the Commercial Cleanup Fund  
July 1, 1988 – June 30, 2013**

Claim Action	Number	Cost
Claims Paid	37,083	\$ 523,451,364
Incidents Denied Totally <sup>1</sup>	33	\$ 4,573,040
Claims Denied Partially <sup>2</sup>	16,550	\$ 92,856,146
Total Deductibles Paid	-----	\$ 90,553,854
Claims Pending	192	\$ 1,208,982
Contracted Cleanups <sup>3</sup>	1442	\$ 25,607,690

<sup>1</sup>Ineligible (operating fees not paid, release discovery pre-dates program)

<sup>2</sup>Excessive or undocumented costs

<sup>3</sup>State Lead actions undertaken or completed

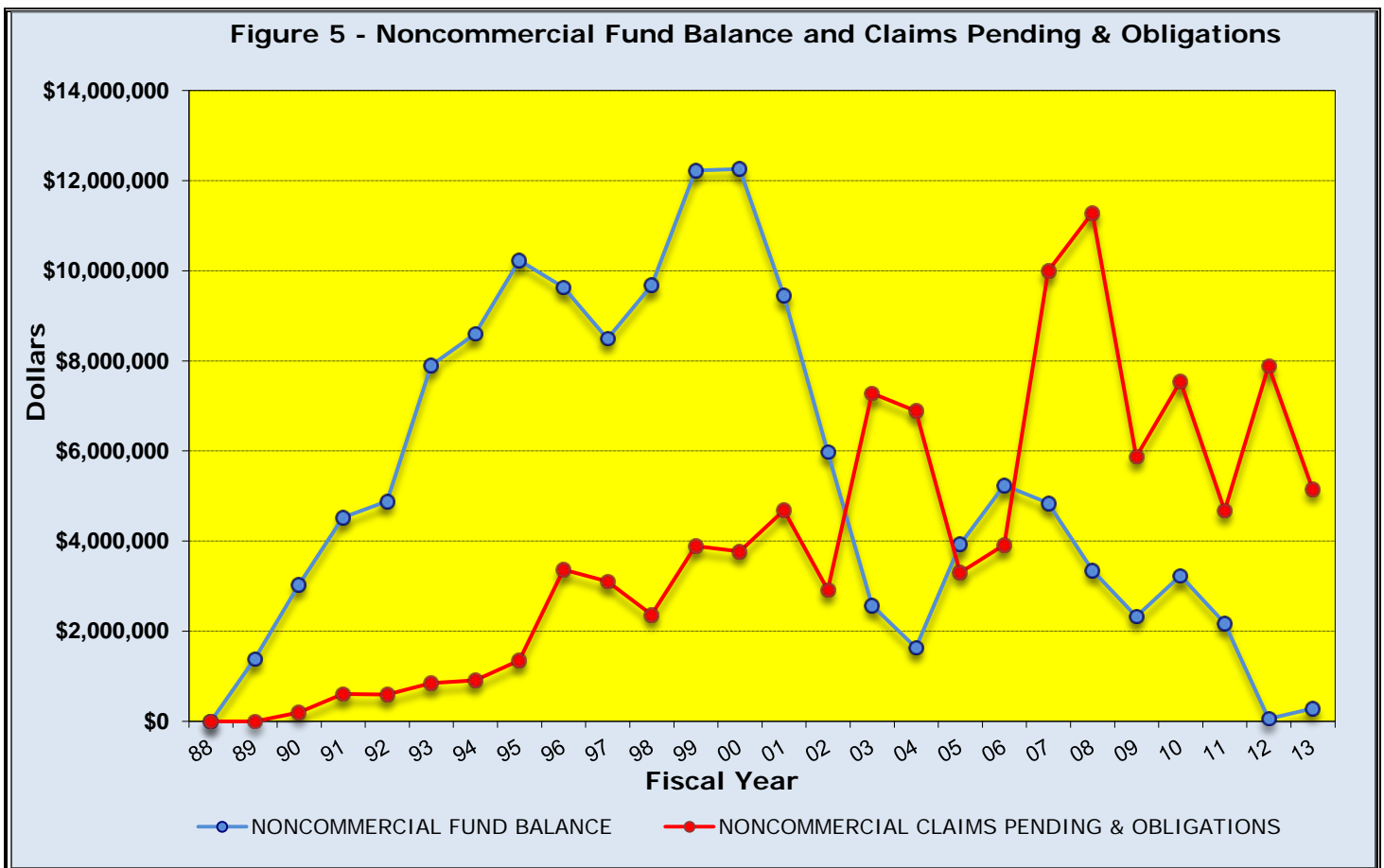
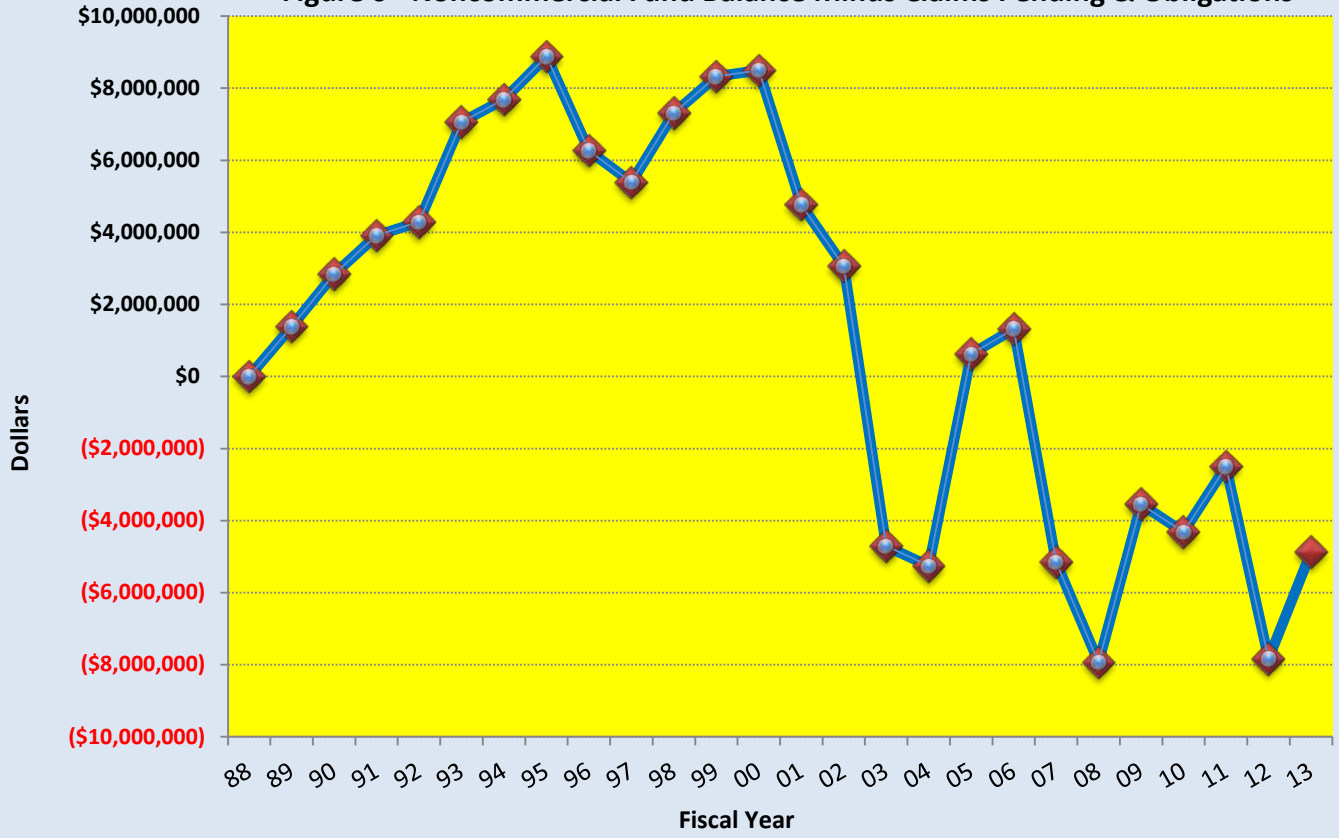


Figure 6 - Noncommercial Fund Balance Minus Claims Pending & Obligations



**Table 4 – Receipts & Disbursements for Noncommercial Cleanups  
7/1/88 – 6/30/13**

Fiscal Year	Receipts	Disbursements <sup>1</sup>	Program Expenses
FY 1989	\$ 0	\$ 0	\$ 0
FY 1990	2,905,035	0	201,254
FY 1991	2,934,347	564,206	547,595
FY 1992	3,018,344	2,143,155	517,221
FY 1993	7,693,288	4,069,497	601,686
FY 1994	3,404,086	2,012,312	694,423
FY 1995	5,194,725	2,900,368	666,270
FY 1996	5,215,550	5,029,109	783,684
FY 1997	5,587,781	5,924,799	801,143
FY 1998	5,717,592	3,869,091	667,724
FY 1999	5,945,461	2,776,105	620,574
FY 2000	5,636,563	5,028,505	570,738
FY 2001	5,811,666	7,890,618 <sup>2</sup>	733,811
FY 2002	6,620,808 <sup>3</sup>	9,182,320	913,755
FY 2003	7,664,329 <sup>4</sup>	9,898,806	1,166,494
FY 2004	8,060,151	7,756,579	1,244,864
FY 2005	14,885,997 <sup>5</sup>	11,326,318	1,265,079
FY 2006	7,615,613 <sup>6</sup>	5,005,578	1,298,441
FY 2007	6,053,993 <sup>7</sup>	5,099,349	1,349,006
FY 2008	6,030,546 <sup>8</sup>	6,105,295	1,416,685
FY 2009	6,178,730 <sup>9</sup>	5,878,808	1,324,956
FY 2010	6,726,977 <sup>10</sup>	4,371,297	1,451,830
FY 2011	6,388,636	5,922,935	1,518,243 <sup>11</sup>
FY 2012	2,402,783	4,522,671	1,521,606
FY 2013	7,272,018 <sup>12</sup>	5,494,840	1,552,619
<b>TOTAL</b>	<b>\$137,693,001</b>	<b>\$117,277,721</b>	<b>\$ 21,877,082</b>

1. Does not include program expenses.
2. \$2 million was transferred from the Noncommercial Fund to the State's General Fund.
3. Includes transfer of \$784,382 from Circle K Settlement Fund.
4. Includes transfer of \$3,418,990 of motor fuel and kerosene tax from Commercial to Noncommercial trust funds due to balance below \$5 million – GS 119.18(b).
5. Includes additional revenue from the 1-year 1.1 cent per gallon excise tax or \$19 million to the Trust Fund.
6. Includes \$1,922,601 transfer to Noncommercial Fund, \$90,000 transfer to the Department of Agriculture and Consumer Services and \$30,016 transfer to repay Federal Trust Fund for State Lead program expenses.
7. Includes transfer to Noncommercial Fund of \$598,935 and disbursement from Commercial Fund to Department of Agriculture and Consumer Services (\$90,000) and Federal LUST Grant (\$108,904).
8. Includes transfer to Noncommercial Fund of \$1,381,848, and disbursement from the Commercial Fund to the Department of Agriculture and Consumer Services (\$90,000), and Federal LUST Grant (\$53,752).
9. Includes transfer to Noncommercial Fund of \$1,004,895, and disbursement from the Comm. fund to Department of Agriculture and Consumer Services (\$90,000).
10. Includes transfer from NC DOT of \$4,283,393.
11. Includes legislatively mandated transfer of interest from the Fund - \$614,239.29.
12. Includes legislative appropriation of funds and interest transfer to the receipts for the Fund - \$4,880,000.



**Table 5 – Claims Against the Noncommercial Cleanup Fund  
7/1/88– 6/30/13**

Claim Action	Number	Cost
Claims Paid	14,362	\$ 114,901,582
Incidents Denied Totally <sup>1</sup>	4	\$ 59,845
Claims Denied Partially <sup>2</sup>	5,565	\$ 13,875,224
Total Deductibles Paid	-----	\$ 1,213,106
Claims Pending	219	\$ 2,200,276
Contracted Cleanups <sup>3</sup>	236	\$ 2,376,139

<sup>1</sup> Ineligible (operating fees not paid, release discovery pre-dates program)

<sup>2</sup> Excessive or undocumented costs

<sup>3</sup> State Lead actions undertaken or completed