



# Transitioning from Private Insurance Back to a State Fund (sort of...)

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# Presentation Outline

- Very brief history of FR in Michigan
- Why the new program was created
- How the new program was created
- Fund elements related to FR
- Obstacles and challenges
- Results so far...



# Michigan's FR History

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## Michigan Underground Storage Tank Financial Assurance Fund (MUSTFA)

- Funded by 7/8 cent per gallon fee (approximately \$56 million/year)
- Accepted claims from 1990 through June 1995 when it was declared insolvent
- Paid claims totaling over \$628 million at 6,500 facilities



# Michigan's FR History

July 1995 - September 2015

- No state FR fund
- Owners & Operators relied mostly on private insurance or were self-insured
- 7/8 cent/gallon fee was still being collected and used for other purposes including paying off debts from environmental bonds, orphaned site cleanups, and weights and measures

# Michigan's FR History

Underground Storage Tank Cleanup Fund (new fund)



- Began accepting claims in October 2015
- Receives the first \$20 million deposited into the Refined Petroleum Fund annually (one cent per gallon fee generates approx. \$60 million)

## Reasons the New Program was Established

The Fee never stopped being collected after the initial fund went broke and UST O/Os who paid the fee did not benefit from it



# Reasons the New Program was Established

- Insurance coverage not available to certain O/Os
- High deductibles on insurance policies in certain instances
- Difficulty in getting claims paid at times

# Program Creation

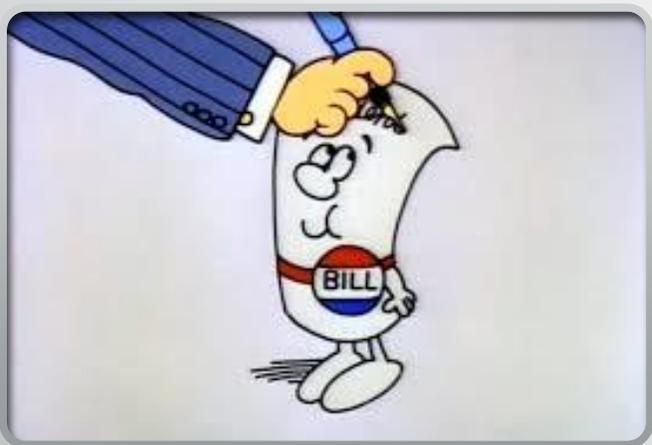
- 2012: Legislation created the Underground Storage Tank Cleanup Advisory Board to make a recommendation as to a new FR/reimbursement program
- Board made up of 9 members representing the petroleum industry, convenience stores, and the environmental community (DEQ provided support to the Board)



# Program Creation continued...

- Four options were considered:
  1. Tax credits or refunds equal to the state average insurance premiums
  2. Sale of the revenue stream to a private firm
  3. State purchase of group insurance
  4. Reimbursement program based on other states and lessons learned from Michigan's past program

# Program Creation continued...



- Spring of 2013: Advisory Board presented recommendation to create a reimbursement fund to the Legislature and the DEQ
- February 2014: Bill creating the reimbursement program introduced
- December 30, 2014: Bill passed and program enacted

# EPA Approval Process



- EPA hadn't had a request for new program review for over 20 years
- Michigan sent request to EPA on September 29, 2015 (program was considered approved during the review process)

# EPA Approval Process (continued)

- State & Region 5 worked closely to ensure that all required elements were present and that issues were addressed
- EPA approved the program as an acceptable FR program on May 27, 2016.



# Elements of the Program

(as initially constructed through December 28, 2016)

- Coverage of \$1 million per claim minus the deductible. \$1 million aggregate for O/Os of 100 USTs or fewer; \$ 2 million aggregate for O/Os of more than 100 USTs
- Deductible of \$50,000 per claim
- O/O's of 7 USTs or fewer could “buy-down” their deductible to \$15,000 by paying an annual fee of \$500/tank
- Standard methods of providing FR for the deductible





# Elements of the Program

(as currently constructed)

- Coverage of \$1 million per claim minus the deductible. \$1 million aggregate for O/Os of 100 USTs or fewer; \$ 2 million aggregate for O/Os of more than 100 USTs
- Deductible of \$10,000 per claim for O/Os of 8 or more USTs and \$2,000 per claim for O/Os of 7 or fewer USTs (no buy-down required)
- State-specific methods of showing FR for the deductible in addition to those in federal statute (approved by EPA on May 18, 2018)

# Challenges Faced

- Getting EPA approval of fund and state financial test
- Overcoming the stigma of the former program's failures
- Providing outreach (how, to whom)
- Naysayers
- Difficulty in getting banks to write letters of credit for small \$



# Challenges Faced

## Responses from the Insurance Industry

- Some agents are happy to be out of the business
- Some provided misleading and/or false information regarding what the fund covers
- Some provided accurate information in how their policies may be better in some instances
- Some agents handle the state FR process for their clients

# Results (so far)...

Facilities Using the State Fund to Meet their FR Requirement  
(Michigan's fiscal year runs from October 1 – September 30)

- End of Fiscal Year 2016: 20.4% (1,379 out of 6,750 facilities)
- End of Fiscal Year 2017: 32.1%
- Currently: 41%

*Remember that owners who do not use the fund for FR may still file claims*  
Larger Owners often choose to self-insure so are unlikely to ever use the fund for FR  
EPA decision regarding SRI and voluntary exclusions likely to increase the percentage

# Results (so far)...

Facilities with Releases that have filed Claims:

- Fiscal Year 2015: 24 claims for 113 releases (21.2%)
- Fiscal Year 2016: 53 claims for 140 releases (37.9%)
- Fiscal Year 2017: 82 claims for 169 releases (48.5%)
- Fiscal Year 2018 (thru 8/15): 104 claims for 169 releases (61.5%)

## Results (so far)...



Current Fund Balance:  
Approximately \$69 million

It's too early to determine the  
effects of claims on closure rates

# Questions & (Possibly) Answers



# Thank You for Attending!

For questions or further information:

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