

South Carolina HAZARDOUS WASTE CONTINGENCY FUND

Annual Report

Fiscal Year 2011: July 1, 2010 — June 30, 2011



Bureau of
Land and Waste Management

Division of
Site Assessment, Remediation,
and Revitalization



South Carolina Department of Health
and Environmental Control

Catherine B. Templeton, Director

PURPOSE OF HWCF ANNUAL REPORT

The Hazardous Waste Contingency Fund Annual Report is submitted by the SC Department of Health and Environmental Control in compliance with S.C. Code Section 44-56-180. Additionally, Act 119 of 2005 mandates that agencies provide all reports to the General Assembly in an electronic format.

Cover Photograph:
Abandoned hazardous wastes at American Screw & Rivet Site (Anderson County)
addressed jointly by DHEC and USEPA Region IV.

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South Carolina Department of Health
and Environmental Control



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Introduction

The South Carolina Department of Health and Environmental Control's (DHEC) mission is to promote and protect the health of the public and the environment. In FY11, DHEC's Division of Site Assessment, Remediation, and Revitalization (SARR) continued its efforts to accomplish this mission by working on over 254 sites, including approximately 250 uncontrolled waste sites that were supported by the Hazardous Waste Contingency Fund (HWCF). These uncontrolled sites are often referred to as "Superfund" sites. The hazardous substances present at many of these sites present a risk not only to human health and the environment, but they may also be harmful to the economy of the surrounding communities. SARR works hard to effectively and efficiently address the challenges posed by these sites.

The South Carolina Hazardous Waste Management Act (HWMA) supports DHEC's mission in many ways including:

- 1) empowering DHEC to implement and enforce the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) and subsequent amendments;
- 2) establishing the HWCF to provide funds for response actions necessary in the event of accidents in the transportation of hazardous materials and to defray the costs of governmental response actions at uncontrolled hazardous waste sites; and
- 3) establishing the Brownfields/Voluntary Cleanup Program which encourages responsible and non-responsible parties to perform response actions under DHEC's oversight. This program provides liability and third party protection to non-responsible parties for past environmental issues, and a covenant not to sue for work completed under this program to both responsible and non-responsible parties. Provisions for reimbursing DHEC's oversight costs are also included.

This report, which is mandated by the HWMA Section 44-56-180 (b), provides information on the activities and response actions that have been carried out in FY11 under the auspices of the HWCF.

G. Kendall Taylor, P.G., Division Director
Division of Site Assessment, Remediation & Revitalization

FY11 Accomplishments at a Glance

The Hazardous Waste Contingency Fund supported activities at approximately 254 sites across the state. These activities included sampling and analysis, remedial actions, technical reviews and oversight, project management, public participation and outreach, potentially responsible party (PRP) searches, cost recovery activities, negotiation of voluntary cleanup contracts and other settlements, and many other activities to support the investigation and cleanup of contaminated sites. Site-specific expenses ranged from less than one hundred dollars in personnel costs to hundreds of thousands of dollars in contractor costs for sampling and cleanup activities. A few of this fiscal year's highlights are described below.

- **Horton Sales Development—Piedmont Site.** DHEC worked diligently to pursue responsible parties for over \$4 million in response costs. DHEC negotiated with several parties, reached a settlement in principle with one party, and prepared to file a complaint in federal court (filed in July 2011).
- **Cone Mills/Union Bleachery Site.** In the spring of 2011, DHEC worked with EPA Region 4 to get this highly contaminated abandoned mill site proposed to EPA's National Priorities List (NPL). The NPL listing became final early in FY12.
- **Elmore Waste Disposal NPL Site.** DHEC completed the first year of its obligation for long-term operation and maintenance (O&M) of the groundwater treatment system. DHEC's contracting mechanism allowed for a savings of approximately 50% compared to EPA's annual O&M costs.
- **AVX Corporation--Myrtle Beach Site.** Under a consent agreement with DHEC, AVX completed a feasibility study and a successful pilot study for the remediation of offsite groundwater contamination. DHEC expects to complete its public participation requirements and select a final remedy in FY12.
- **Philip Services Corporation (formerly ThermalKem) Site.** DHEC and its contractor worked closely with a large group of potentially responsible parties (PRPs) to complete the remedial investigation and feasibility study. DHEC expects to conduct public participation activities and propose a final remedy in FY12. DHEC continued discussions with the PRP Group regarding the Group's reimbursement of DHEC's past response costs and funding of future cleanup activities.
- **Responsible Party Voluntary Cleanup Contracts (RP-VCCs) and Consent Agreements.** DHEC worked on approximately 50 sites that are under RP-VCCs and 27 sites under Consent Agreements. DHEC entered into six new RP-VCCs during FY11 and issued three Certificates of Completion. These VCCs include provisions for the responsible parties to reimburse DHEC for its oversight costs and to perform investigations of contamination.
- **Community Meetings.** DHEC held or participated in four public meetings to seek input, and to discuss site findings and upcoming activities.
- **EPA Removal Sites.** DHEC provided support to EPA for five sites where the Emergency Response and Removal Branch either conducted a time-critical removal action or evaluated a site for eligibility for an EPA-lead removal action.
- **Emergency Response.** The HWCF supported five cleanups by DHEC's Emergency Response Program.
- **Integrating BOW Sites.** DHEC's Division of Site Assessment, Remediation & Revitalization continued its process of integrating hundreds of contaminated sites that were previously addressed in DHEC's Bureau of Water (BOW). Owners and/or operators of some of these sites have been performing investigation and cleanup activities for many years under BOW consent orders and agreements. DHEC is working diligently to ensure these projects are addressed in a manner that is consistent with Bureau of Land and Waste Management procedures, and is taking steps to get these parties under RP-VCCs or to amend existing agreements to provide for reimbursement of DHEC's oversight costs.

History and Status of HWCF's Uncontrolled Sites Fund

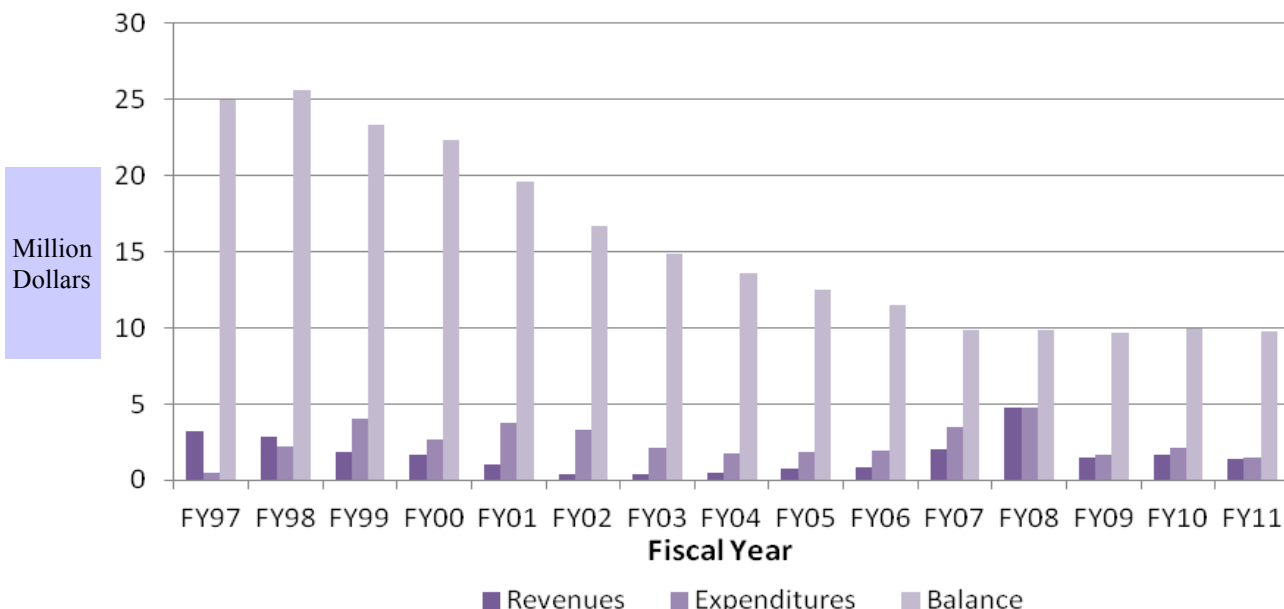
The HWCF was established in the 1980s to ensure the availability of funds for response actions at uncontrolled sites that do not qualify for federal assistance. The HWCF was initially financed through the imposition of fees on waste disposed at the Pinewood Hazardous Waste Landfill. From its beginning in the 1980s, the Uncontrolled Sites Fund portion of the HWCF grew to a balance of approximately \$11 million at the close of FY90.

Through the 1990s, revenues for the Uncontrolled Sites Fund averaged approximately \$2 to \$3 million annually and the balance grew and briefly exceeded \$25 million in 1998 (See figure below). However, the HWCF lost its primary funding source in 2000 when Safety-Kleen filed for bankruptcy protection and shortly thereafter stopped receiving waste at the Pinewood Landfill. At that time, the Uncontrolled Sites Fund had a balance of approximately \$22 million. With the exception of monies from cost recovery efforts and the billing of private parties for DHEC's oversight of work performed under consent agreements and voluntary cleanup contracts, there were no new revenues for the HWCF. From FY98 through FY07, expenditures greatly exceeded revenues and the HWCF balance steadily declined. The closing balance for FY10 was approximately \$9,934,840.18. During FY11, revenues were \$1,370,772.97 and expenditures were

\$1,516,784.03. The Uncontrolled Sites Fund closed FY11 with a balance of \$9,788,829.12, much of which is committed to future assessment and remediation activities.

Beginning in 2000, establishing a continued funding source for the HWCF was a budget priority for the Department. Budget Proviso 9.45, which was passed in 2006, allowed the HWCF to retain the interest on the Fund balance. In FY08, Budget Proviso 9.54 authorized DHEC to assess an annual fee on hazardous waste generators and to levy a per ton fee on hazardous waste generated with the proceeds to be deposited into the HWCF. These provisos were codified in 2008. Specifically, large quantity generators, as determined by R.61-79.262 (South Carolina Hazardous Waste Regulations), producing greater than 100 tons of hazardous waste per year are assessed an annual base fee of \$1,000 per facility and a \$1.50 per ton fee for all hazardous waste the company generates. Small quantity generators are assessed an annual fee of \$500. Fees collected under this provision shall not exceed an annual cap of \$15,000 per generator. Companies subject to fees required by S.C. Code Ann. Section 44-56-170 (F)(1)(1976) are exempt from fees established by this provision. Annually, the interest and fees provide approximately \$1.0 to \$2 million in new revenues.

HWCF Uncontrolled Sites Fund



HWCF Financial Snapshot for FY11

HWCF Uncontrolled Sites Fund	
Opening Balance (07/01/10)	\$9,934,840.18
Revenues*	\$1,370,772.97
Total Expenditures FY11 <i>(See Table below)</i>	(\$1,516,784.03)
Closing Balance (06/30/11)	\$9,788,829.12
Obligated as State Cost Share Match for National Priorities List Sites**	(\$240,262.00)
Obligated for Site Response Activities <i>(See Table on page 5)</i>	(\$4,101,299.86)
Obligated for Supplies, Equipment, Travel, Etc.	(\$47,500.00)
Obligated for Administrative Expenses for FY12 (Salaries, Fringe Benefits & Agency Assessment)	(\$900,000.00)
Un-obligated Balance for Uncontrolled Sites Fund (06/30/11)	\$4,499,767.26

* Includes hazardous waste generator fees, interest, reimbursement of oversight costs, and cost recovery.

** At federal fund-lead sites, CERCLA requires the state to provide a 10% cost share for remedial actions. The above figure is for the outstanding portion of DHEC's 10% cost share for remedial actions at the Brewer Gold Mine Site (\$194,172.00) and the Geiger Site (\$46,090.00).

Breakdown of Total FY11 Expenditures	
Uncontrolled Sites	\$627,725.36
Emergency Response	\$5,605.32
Salaries, Fringe Benefits, Agency Administrative Assessment	\$883,453.35
Total Expenditures	\$1,516,784.03

FY12 Obligations for Site Response Activities

This table shows site-specific obligations (approximately \$4.1 million) that were already assigned to a state contractor or which were planned to be committed. These sites represent a very small portion of DHEC's inventory of sites. Based on recent and historical averages, it is estimated that the existing inventory of sites will present a liability to the HWCF in the tens of millions of dollars or more.

Obligation	Description	Amount
Congaree River Sediment	Sampling	\$3,438.10
Elmore Waste Disposal (NPL Site)	Annual Operation & Maintenance/Sampling	\$101,910.11
Hollis Road	Groundwater Treatment	\$2,600,000.00
Horton Sales-Piedmont	Site close-out	\$4,412.47
I-85 Distribution Center	Response to Transformer Release	\$2,099.23
J & H Smith Manufacturing	Sampling	\$17,134.25
Kalama	Sampling	\$286.87
Langley Pond	Sediment and Surface Water Sampling/Evaluation	\$212,756.00
Palmetto Wood Preserving (NPL Site)	Additional Injections, Annual Operation & Maintenance/Sampling	\$30,000.00
Philip Services Corporation	Complete RI/FS, Groundwater Treatment O&M	\$23,834.62
Poe Mill	Sampling	\$9,855.14
Stoller Chemical	Groundwater Remedy Implementation/Evaluation	\$216,878.62
Suffolk Chemical	Groundwater Remediation Operation & Maintenance	\$50,387.00
Original Contractor Commitments	Various Sites/Activities	\$799,676.94
Miscellaneous	Outside Legal Services in Support of Cost Recovery & Other Related Activities	\$29,630.51
Total Obligations as of June 30, 2011		\$4,101,299.86

Note - This figure does not include any additional planned future assessment or cleanup activity obligations that have not yet been assigned to a contractor.

Primary Uses of the HWCF Uncontrolled Sites Fund

State-lead Response Actions. The primary uses of the HWCF are to provide funds for contractual services to perform state-funded investigation and cleanup activities at sites where other funds are not available, and to provide funds for personnel and operating costs to implement the program for conducting response actions. The State Superfund Program evaluates and sets priorities for sites in order to address the worst cases first. Unless the Department deems an imminent threat exists or a criminal investigation is necessary, state-funded response actions are generally conducted only after the Department initiates the appropriate procedures to secure alternative funding. Considerable time and effort are expended to ensure that all available funds from the responsible parties and other sources are utilized before drawing on funds from the HWCF.

In most cases, the Department attempts to negotiate voluntary cleanup contracts or other settlements with responsible parties and non-responsible parties. Various styles of settlements with responsible and non-responsible parties require settling parties to perform investigations to determine the source, nature, and extent of contamination and/or cleanup contaminated sites, to fund these response activities themselves, or, alternatively, to reimburse the Department's response costs when the Department performs cleanups of sites. With many of these settlements, the Department typically includes covenants not to sue for the work performed by the responsible parties or non-responsible parties to the Department's satisfaction, and/or state contribution protection from other responsible parties which may seek reimbursement of all or a portion of costs of responding to environmental conditions at a site.

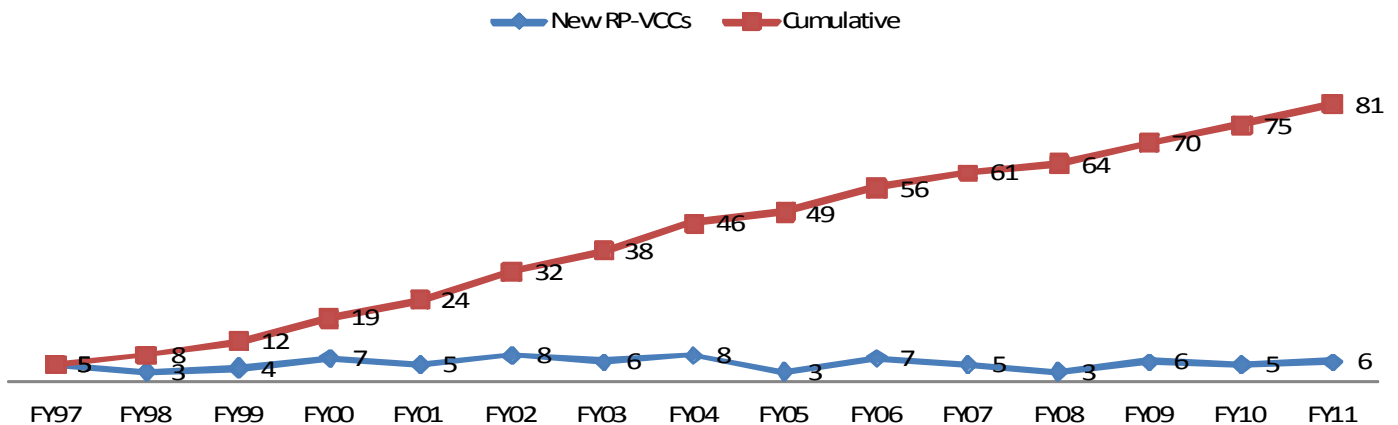
When a responsible party or non-responsible party enters into an agreement or voluntary cleanup contract with the Department to pay for or perform response activities, DHEC staff must review and approve all environmental reports, sampling data, and other activities associated with the cleanup of contaminated sites to assure that public health and the environment are protected. Under these contracts and agreements, parties are required to reimburse DHEC's costs for oversight activities. The authority of DHEC to use the HWCF and to seek cost recovery provides leverage that may encourage responsible parties to come forward voluntarily. Further, DHEC performs public participation/community involvement activities pursuant to CERCLA and the National Contingency Plan (NCP) to ensure that affected communities have input into the cleanup.

The chart below shows the number of responsible party voluntary cleanup contracts executed and the cumulative total for each fiscal year since the first RP-VCC was executed in FY97.

Emergency Response. DHEC's Emergency Response Program responds to accidental spills and other problems associated with the transportation of hazardous materials as well as other incidents where hazardous materials are spilled, illegally dumped, or otherwise abandoned on public property. The Emergency Response Program administers the Emergency Response Contract, which is used to secure, sample, and properly dispose of wastes. These activities are funded by the HWCF.

(Continued on page 7)

Responsible Party Voluntary Cleanup Contracts



Primary Uses of HWCF (Continued)

In FY11, the Emergency Response Program expended approximately \$5,605.32 responding to five incidents. The Emergency Response Program generally seeks reimbursement from the National Pollution Funds Center. The amount of reimbursement money varies from year to year depending on the number and types of incidents that occur. All reimbursements are returned to the HWCF.

Administrative Costs/Salaries. DHEC uses HWCF monies for salaries and program administration. The HWCF currently funds approximately 17 FTEs (full-time equivalent positions) that perform site prioritization activities, project management, technical reviews and field oversight, cost recovery activities, public participation activities, and other administrative activities. During FY11, the HWCF provided \$883,453.35 for salaries and fringe benefits, and agency administrative assessments, and \$17,104.72 for other non-site-specific costs. These costs are included in DHEC’s cost recovery efforts against potentially responsible parties.

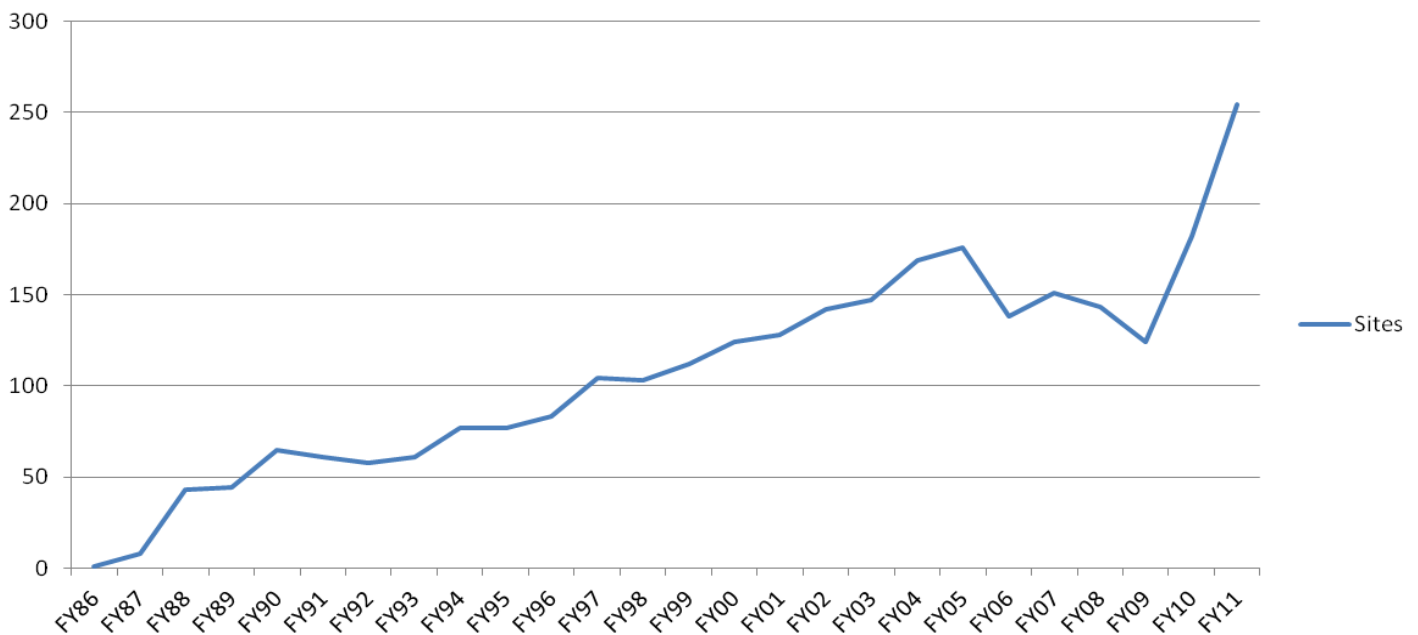
Criminal Investigations. The State Superfund Program also assists DHEC’s Office of Criminal Investigations by providing technical assistance and contractual services for gathering evidence for environmental crime cases. After the initial criminal investigation activities are completed, DHEC may perform or oversee additional cleanup activities. These matters are considered enforcement confidential until the criminal investiga-

tions are completed.

Federal-lead Superfund Sites. The HWCF supports certain DHEC activities at federal-lead Superfund sites. Cleanup activities on most of these sites are being funded by private parties and most of DHEC’s day to day costs are funded through the Support Agency Cooperative Agreement with EPA. However, DHEC may also incur costs for activities such as natural resource damages assessments, support to EPA’s Emergency Response and Removal Branch, and other activities that are outside the scope of the cooperative agreement. For federal-lead NPL sites, DHEC is “potentially liable” for a state cost share of 10% to 50% for long-term remedial action costs and 100% of operation and maintenance costs.

In November 2009, DHEC assumed responsibility for 100% of the operation and maintenance costs for the existing groundwater pump and treat system at the Elmore Waste Disposal Site in Greer. Based on EPA’s costs, DHEC’s continuing costs were expected to be approximately \$150,000 per year. However, DHEC was able to realize a significant savings through its contracting process. DHEC also assumed responsibility for operation and maintenance costs at the Palmetto Wood Preserving Site in FY10. Costs for this site are approximately \$30,000 per year as only routine monitoring is expected to occur. Two additional NPL sites may require a state match in the next couple of years. DHEC’s potential liability for these sites is currently unknown.

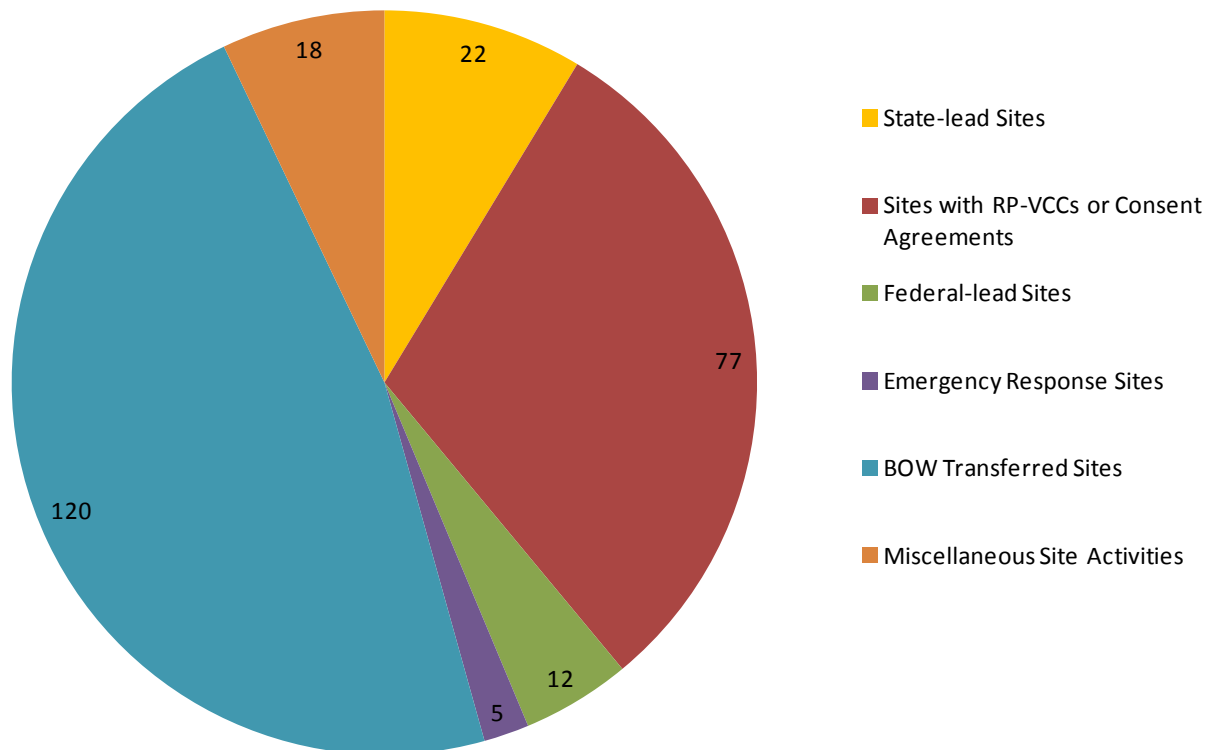
Estimated Number of Sites Addressed/Supported by HWCF



Types of Sites Supported by HWCF in FY11

- **State-lead Sites.** Investigation and cleanup activities have been funded primarily by the HWCF. Sites conditions warrant DHEC's performance of the investigation and cleanup because owners and/or operators are bankrupt and/or non-viable parties. DHEC generally seeks cost recovery on these sites.
- **Sites with Responsible Party Voluntary Cleanup Contracts and Responsible Party Consent Agreements.** Responsible Parties are performing assessment and cleanup activities under DHEC's oversight. In general, these parties are reimbursing DHEC's oversight costs.
- **Emergency Response Sites.** The HWCF funds emergency response activities; however, DHEC requests and generally receives reimbursement from responsible parties or the National Pollution Funds Center.
- **Federal-lead Sites.** The HWCF supported DHEC activities at 12 federal-lead Superfund sites. This number does not include NPL sites where all of DHEC's activities are funded by the cooperative agreement with EPA. These activities included oversight of time-critical removal actions, support for listing of sites on the NPL, sampling and other long-term operation and maintenance activities at two sites, and pursuing natural resource damages.
- **BOW Transferred Sites.** DHEC also oversaw the activities funded by responsible parties at over 120 sites that were transferred from DHEC's Bureau of Water to be integrated into the State Superfund Program. The HWCF is currently funding DHEC's oversight of these activities. By the end of FY13, it is anticipated that most if not all of these sites' responsible parties will have been invited to participate in the Voluntary Cleanup Program.
- **Miscellaneous Site Activities.** Legal support for Brownfields, etc.

In FY11, 254 Sites Addressed/Supported Using HWCF as Funding Source



State Superfund Program's Response Process

The purpose of the State Superfund Program is:

To protect public health and the environment by requiring investigation and cleanup of abandoned and uncontrolled hazardous waste sites and by taking short-term actions to mitigate immediate threats to human health and the environment.

DHEC focuses its attention and financial resources on the sites that pose the greatest risk to human health and the environment. DHEC's Bureau of Land and Waste Management's Division of Site Assessment, Remediation, and Revitalization is responsible for managing state-lead response actions and supporting federal-lead response actions. The State Superfund process begins with site discovery or notification of possible releases of hazardous substances.

DHEC's site assessment and remediation process may include a short-term removal action or a complex and lengthy remedial investigation and long-term cleanup.

Removal Process. If a site requires immediate attention, DHEC may perform an emergency response action or a time-critical removal to address immediate threats to the public health or the environment.

Remedial Process. If a site does not pose an imminent threat, it is screened to determine whether it war-

rants further evaluation for remedial (or long-term) measures. If a site does not qualify for placement on EPA's National Priorities List (NPL), then cleanup is addressed by the State Superfund Program.

- **RI/FS Phase.** A Remedial Investigation (RI) is an in-depth investigation to determine the nature and extent of contamination at a site. The Feasibility Study (FS) provides a comparison of various cleanup options that would make the site safe for the public and the environment.
- **Proposed Plan Phase.** From the information in the FS, a Proposed Plan is developed offering a preferred remedial option. The public is given a 30-day comment period during which a public meeting is held to encourage community input and participation in the final remedy selection.
- **ROD Phase.** After the comment period, DHEC formally documents the selected remedy in the Record of Decision (ROD).
- **RD/RA Phase.** After the ROD, the project enters the Remedial Design/Remedial Action (RD/RA) phase, where the remedy is designed and implemented. Ongoing monitoring occurs to ensure that the remedy remains protective of public health and the environment.
- **NFA.** If the Department determines that no further Superfund response action (NFA) is required to protect human health and the environment, the technical response matter is in effect closed.

Congaree River Sediment

Community Awareness ... Investigation ... Negotiation

In late June and July 2010, a tar-like substance on the riverbed of the Congaree River in downtown Columbia was reported. (Photograph to right.) DHEC collected samples, posted signs, staked out the area of concern, and further advised residents to avoid swimming or wading in the area. DHEC believed the source may have been from either of two former manufactured gas plants (MGP) that operated in the early 1900s to around the 1950s. DHEC negotiated with one potentially responsible party that was already performing work at one of the MGPs under a responsible party voluntary cleanup contract. This party quickly agreed to include this riverbed area in its investigation under the ongoing contract. DHEC's successful negotiation allowed a quick remedial investigation to be conducted and funded by a potentially responsible party instead of continuing to use monies from the HWCF.



Community Involvement

The State Superfund Program strives to inform the public of environmental impacts of contamination in their communities and to involve local communities in decision-making opportunities. Depending on specific needs of the community and state and federal law, DHEC:

- provides fact sheets specifically for local communities;
- holds meetings specific to site needs and various phases of response;
- provides notice in a local newspaper of 30-day periods to comment on proposed cleanup activities and availability of the administrative record (which contains decision-making documents and which is made available at a local library and at DHEC's Bureau of Land and Waste Management office);
- provides notice of 30-day periods to comment on proposed settlements with responsible parties and publishes such notice in a local newspaper and/or with certain settlements published in the South Carolina State Register;
- establishes a community relations plan for state-lead sites as deemed appropriate; and,
- participates or assists in media releases.

Community Involvement in FY11

- | | |
|------------------------------|---|
| • Community Meetings | 4 |
| • Fact Sheets to Communities | 4 |
| • Notices of Comment Periods | 8 |



DHEC's staff discussing a site with a nearby resident.