

South Carolina
**HAZARDOUS WASTE
CONTINGENCY FUND**

Annual Report

Fiscal Year 2012: July 1, 2011 — June 30, 2012



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 Ann. 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:

Containers and compressed gas cylinders were abandoned at the edge of a field at the Wilsontown Road Drum Site (Laurens County). The Department properly disposed of the containers and cylinders in FY12 using the Hazardous Waste Contingency Fund.

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South Carolina Department of Health
and Environmental Control

Inside this Report:

Introduction	1
FY12 Accomplishments at a Glance	2
History and Status of HWCF	3
HWCF Financial Snapshot for FY12	4
Primary Uses of HWCF	6
Number of RP-VCCs	6
Number of Sites Addressed with HWCF	7
Types of Sites Supported with HWCF	8
State Superfund's Response Process	9
Highlight on Langley Pond	9
Community Involvement	10

Introduction

The South Carolina Department of Health and Environmental Control's (DHEC or the Department) mission is to promote and protect the health of the public and the environment. In FY12, DHEC's Division of Site Assessment, Remediation, and Revitalization continued its efforts to accomplish this mission by working on approximately 285 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. DHEC 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, S.C. Code Ann. Section 44-56-180(b), provides information on the activities and response actions that have been carried out in FY12 under the auspices of the HWCF.

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

FY12 Accomplishments at a Glance

The HWCF supported activities at approximately 285 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 year's highlights are described below.

- **Integrating BOW Sites.** DHEC's Bureau of Land and Waste Management (BLWM) enhanced its efforts to integrate hundreds of contaminated sites that were previously addressed in DHEC's Bureau of Water (BOW). DHEC is working diligently to ensure all projects are addressed consistently. As part of these efforts, DHEC sent Voluntary Cleanup Program invitation letters to 21 owners and/or operators who have been performing investigation and cleanup activities for many years with no formal oversight agreement. DHEC will be sending additional invitations and is also taking steps to amend over 50 consent agreements/orders to ensure those sites are addressed consistently and to provide for reimbursement of DHEC's oversight costs as allowed by law.
- **Horton Sales Development—Piedmont Site.** DHEC continued its pursuit of responsible parties for over \$4 million in response costs. DHEC filed a cost recovery complaint in federal court in July 2011. At the end of FY12, DHEC had been reimbursed \$63,000 for one settlement, had another \$1.92 million in settlements awaiting final approval of the court, and was continuing to negotiate with several additional parties.
- **Langley Pond Site (Aiken County).** Langley Pond is a 280-acre impoundment that historically received large quantities of wastewater from textile mills and other sources beginning in the mid-1800s. Langley Pond is an important economic and recreational resource where historic sediment contamination has led to fish consumption advisories. In the early 1990s, natural sedimentation was chosen as a remedy to address the contaminated sediments; however, very few samples had been collected to confirm the effectiveness of natural sedimentation. Late in FY11, DHEC and a State Superfund contractor developed a scope of work to evaluate the effectiveness of the sedimentation remedy and the current distribution of contamination. Field work, including the collection of hundreds of sediment samples, was completed in February 2012. An assessment report was being finalized at the end of FY12. This study is being conducted in partnership with Aiken County.
- **AVX Corporation--Myrtle Beach Site.** DHEC completed its public participation requirements (public meeting/comment period) and selected a final remedy (in-situ injections) for offsite groundwater contamination. AVX began implementation of the remedy early in 2012. While it will take many years for the groundwater to meet cleanup goals, initial results have been favorable.
- **Philip Services Corporation (formerly ThermalKem) Site (York County).** DHEC has drafted its proposed plan for remedial action and is currently negotiating a settlement with a large group of PRPs to fund and implement the final remedy. DHEC expects to conduct public participation activities and select a final remedy in FY13.
- **Responsible Party Voluntary Cleanup Contracts (RP-VCCs) and Consent Agreements/Orders.** DHEC worked on approximately 50 sites that are under RP-VCCs and 80 sites under Consent Agreements/Orders. DHEC entered into three new RP-VCCs, amended one existing VCC, and issued three Certificates of Completion during FY12.
- **Community Involvement/Meetings.** DHEC held or participated in eight public meetings to seek input, and to discuss site findings and upcoming activities and provided numerous fact sheets and public comment periods.
- **EPA Removal Sites.** DHEC provided support to the United States Environmental Protection Agency (EPA) for four sites where EPA's 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 provided over \$12,000 in support for five cleanups by DHEC's Emergency Response Program.

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.

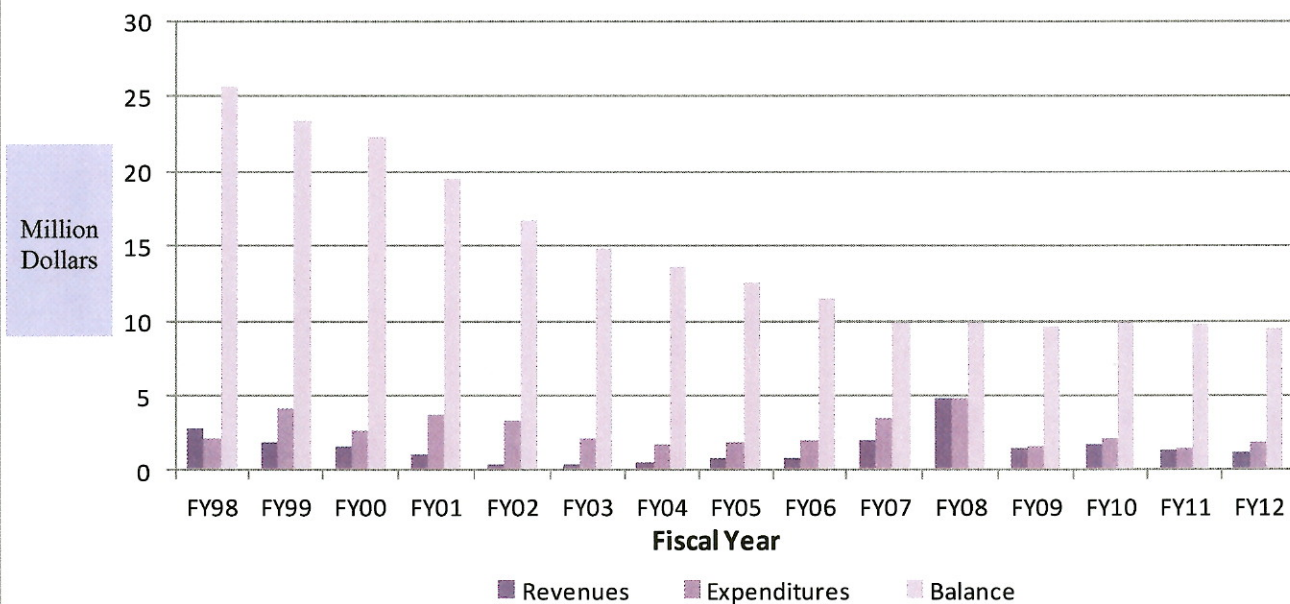
Through the 1990s, revenues for the Uncontrolled Sites Fund averaged approximately \$2 to \$3 million annually and the balance grew and briefly exceeded \$25 million in 1998 (See figure below). However, the HWCF lost its primary funding source in 2000 when Safety-Kleen filed for bankruptcy protection 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.

Beginning in 2000, establishing a continued funding source for the HWCF was a budget priority for the De-

partment. 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 to \$2 million in new revenues.

The opening balance for FY12 was \$10,149,381.65. During FY12, revenues were \$1,186,887.95 and expenditures were \$1,821,981.29. The Uncontrolled Sites Fund closed FY12 with a balance of \$9,514,288.31, much of which is committed to future assessment and remediation activities at existing sites.

HWCF Uncontrolled Sites Fund



HWCF Financial Snapshot for FY12

HWCF Uncontrolled Sites Fund

Opening Balance (07/01/11)	\$10,149,381.65
Revenues*	\$1,186,887.95
Total Expenditures FY12 <i>(See Table below)</i>	(\$1,821,981.29)
Closing Balance (06/30/12)	\$9,514,288.31
Obligated as State Cost Share Match for National Priorities List (NPL) Sites**	(\$240,262.00)
Obligated for Site Response Activities <i>(See Table on page 5)</i>	(\$4,325,427.79)
Obligated for Supplies, Equipment, Travel, Etc.	(\$47,500.00)
Obligated for Administrative Expenses for FY12 (Salaries, Fringe Benefits & Agency Assessment)	(\$907,939.00)
Un-obligated Balance for Uncontrolled Sites Fund (06/30/12) ***	\$3,993,159.52

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

** At federal fund-lead NPL sites, CERCLA requires the state to provide a 10% cost share for remedial actions. This figure is for the outstanding portion of DHEC's 10% cost share for the Brewer Gold Mine Site (\$194,172.00) and the Geiger Site (\$46,090.00). A substantial cost share is also anticipated for the Barite Hill Mine Site in the next several years.

*** This figure does not account for upcoming assessment/cleanup activities that are in the planning stages and which have not yet been assigned to a contractor.

Breakdown of Total FY12 Expenditures

Uncontrolled Sites	\$854,776.82
Emergency Response	\$12,881.43
Salaries, Fringe Benefits, Agency Administrative Assessment	\$954,323.04
Total Expenditures	\$1,821,981.29

FY13 Obligations for Site Response Activities

This table shows site-specific obligations (approximately \$4 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
Can City Road	Removal Action	\$40,000.00
Carolina Chemicals	Sampling	\$10,000
Cone Mills/US Finishing	O&M and Receiver Activities	\$10,000
Elmore Waste Disposal (NPL Site)	Annual Operation & Maintenance/Sampling	\$131,510.00
Former Hoechst Celanese/Kosa	Sampling	\$8,505.00
Hollis Road	Groundwater Treatment	\$2,600,000.00
J & H Smith Manufacturing	Monitoring Wells/Sampling	\$50,000.00
Langley Pond	Sediment and Surface Water Sampling/Evaluation	\$240,307.00
Palmetto Wood Preserving (NPL Site)	Additional Injections, Annual Operation & Maintenance/Sampling	\$25,000.00
Philip Services Corporation	Remedy Selection Support, Groundwater Treatment O&M	\$192,000.00
Stoller Chemical Site	PRB-1 Performance Evaluation/Offsite Access	\$100,000.00
Suffolk Chemical	Groundwater Remediation Operation & Maintenance	\$55,000.00
Wilsontown Road Drum Site	Removal Action/Soil Sampling	\$15,000.00
Original Contractor Commitments	Various Sites Activities	\$770,347.88
Miscellaneous	Outside Legal Services to Support Cost Recovery, etc.	\$77,757.91
Total Obligations as of June 30, 2012		\$4,325,427.79

Note—This figure does not include several upcoming assessment/cleanup activities that are in the planning stages and which have not yet been assigned to a contractor. It also does not include State-lead activities funded by court-ordered site-specific cleanup funds established through cost recovery activities.

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. In FY12, DHEC sent Voluntary Cleanup Program invitation letters to re-

sponsible parties for 21 sites. We expect many of these will result in executed contracts in FY13.

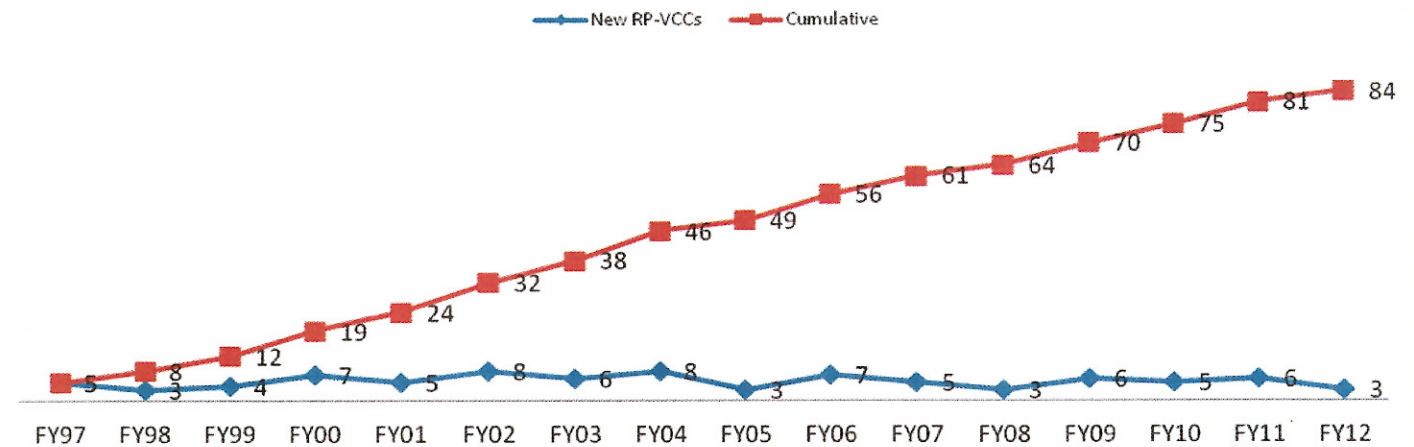
When a responsible party or non-responsible party enters into an agreement or voluntary cleanup contract with the Department to pay for or perform response activities, DHEC staff must review and approve all environmental reports, sampling data, and other activities associated with the cleanup of contaminated 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 FY12, the Emergency Response Program expended approximately \$12,881 responding to five emergency response 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.

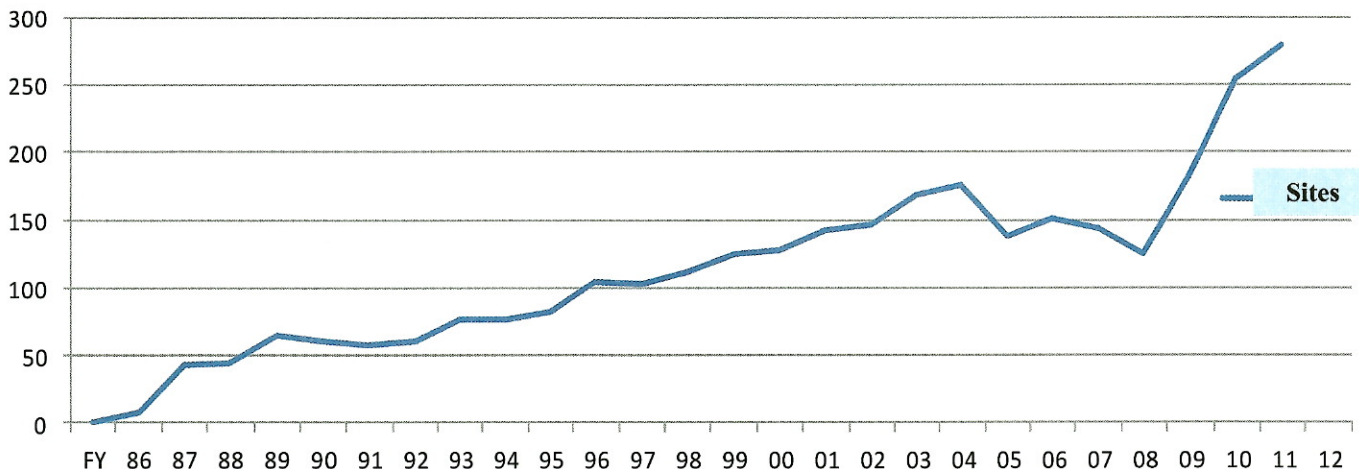
Administrative Costs/Salaries. DHEC uses HWCF monies for salaries and program administration. The HWCF currently funds approximately 17 FTEs (full-time equivalent positions) that perform site prioritization activities, project management, technical reviews and field oversight, cost recovery activities, public participation activities, and other administrative activities. During FY12, the HWCF provided \$954,323 for salaries, fringe benefits, and agency administrative assessments, and \$33,256 for other operating costs. These costs are included in DHEC’s cost recovery efforts against PRPs.

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 investigations 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-financed remedial actions at 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 (O&M) costs for the existing groundwater pump and treat system at the Elmore Waste Disposal Site in Greer. Based on EPA’s historic costs, DHEC’s continuing costs were expected to be approximately \$150,000 per year. However, during DHEC’s first two and a half years of responsibility for O&M activities, DHEC has managed to conduct O&M activities for approximately \$87,000 per year (or approximately \$150,000 less than originally anticipated). DHEC has also assumed responsibility for operation and maintenance costs at the Palmetto Wood Preserving Site. Costs for this site are approximately \$25,000 per year as only routine monitoring is expected to occur. Two additional NPL sites are obligated for a state match of \$240,000 in the next few years, and a third site, Barite Hill, is expected to require a more substantial cost share in the next several years.

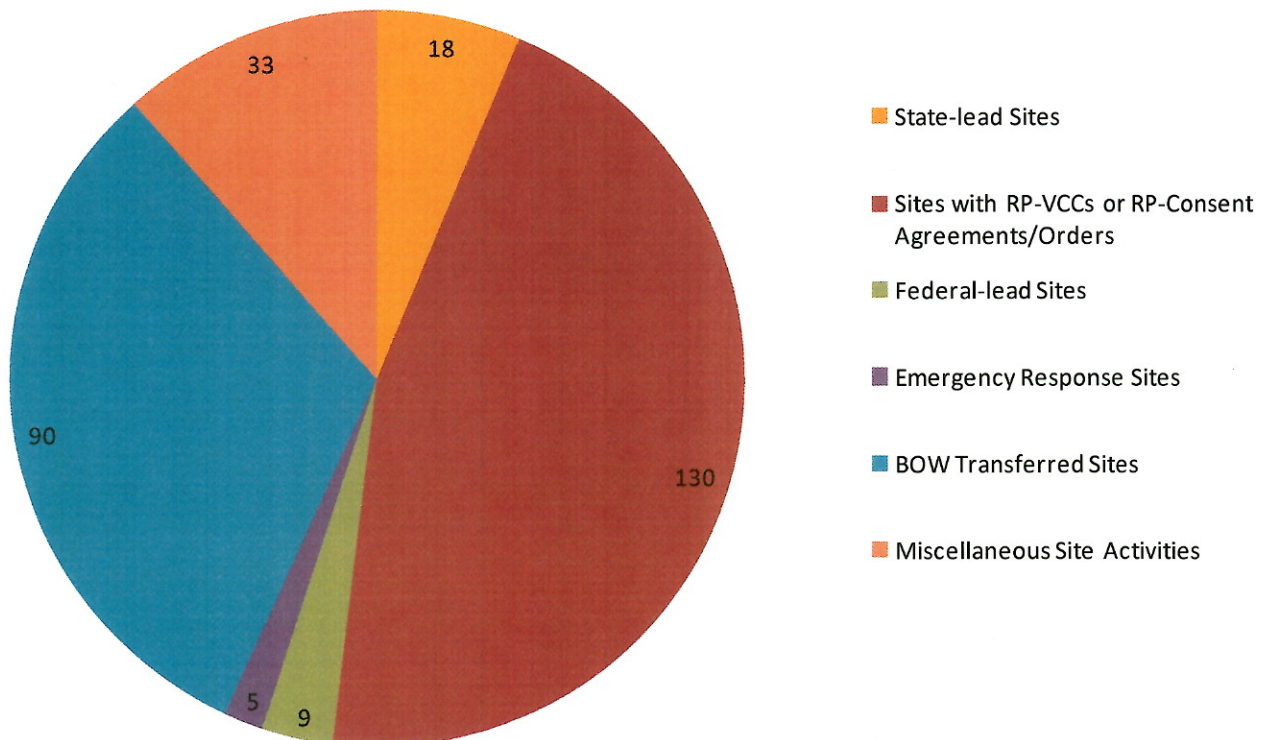
Number of Sites Addressed/Supported by HWCF by Fiscal Year



Types of Sites Supported by HWCF in FY12

- **State-lead Sites.** Investigation and cleanup activities have been funded primarily by the HWCF. Site 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 nine 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 approximately 130 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. DHEC is working diligently to get all of the transferred sites under voluntary cleanup contracts or consent agreements for oversight and reimbursement of DHEC's costs.
- **Miscellaneous Site Activities.** Legal support for Brownfields, etc.

In FY12, 285 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 source, 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.
- **Closure.** If DHEC determines the cleanup is complete and no additional response action is required, DHEC will close the matter.

Highlight on Langley Pond (Aiken County)

(see page 2 for additional background)

In August 2011, DHEC held a public meeting to provide information on an extensive study of sediment contamination in Langley Pond and to solicit input from the citizens regarding their knowledge of contamination and their use of Langley Pond for recreation. This photo shows contractors collecting one of the hundreds of sediment samples that were analyzed for polychlorinated biphenyls (PCBs), mercury, and heavy metals. Results of the sampling will help DHEC determine the effectiveness of a "natural sedimentation" remedy that has been in effect since the early 1990s and whether or not additional remedial actions are necessary. A final report on the study and another public meeting are anticipated in FY13. Funding for the study has been shared by DHEC and Aiken County.



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 written for local communities;
- holds community meetings and availability sessions 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 FY12

- Community Meetings 8
- Support to other Meetings 3
- Fact Sheets to Communities 5
- Newspaper Notices 13
- Public Comment Periods 8