



2023 Annual Report Draft

Purpose

This report is submitted to the General Assembly and the Department of Health and Environmental Control (DHEC) to fulfill the requirements of Title 44, Chapter 2 of the 1976 South Carolina Code of Laws, as amended. Specifically, Section 44-2-150(G) of the State Underground Petroleum Environmental Response Bank (SUPERB) Act requires the SUPERB Advisory Committee (the Committee) to submit an annual report that addresses the financial status and viability of the SUPERB Account and the SUPERB Financial Responsibility Fund (SFRF), the number of sites successfully remediated, the number of sites remaining to be remediated, and any statutory or regulatory changes the Committee recommends. In addition, this report contains information regarding the status of the underground storage tank (UST) population in South Carolina.

The SUPERB Accounts

Federal regulations (enacted in 1988) require UST owners or operators to demonstrate financial responsibility for corrective action and third-party liability at \$1,000,000 per leak occurrence. The South Carolina General Assembly created the SUPERB Account in 1988 to assist UST owners and operators in meeting the corrective action portion of the federal financial responsibility requirements, and the SFRF was legislatively created in 1993 to assist owners and operators in meeting the third-party liability requirement. SUPERB eligible UST owners and operators are responsible for a \$25,000 deductible per UST leak occurrence, and they remain liable for costs above \$1,000,000.

A ½ cent environmental impact fee imposed on each gallon of petroleum entering the state funds the SUPERB Accounts. The Department of Revenue collects the fee under the authority of Section 12-28-2355. Impact fee revenue received during calendar year 2023 totaled \$20,203,595.79 and the total revenue received including impact fee revenue, additional tank fees, and interest totaled \$21,175,166.46 (Table 1). SUPERB expenditures during calendar year 2023 totaled \$20,339,067.55. As of December 31, 2022, a total of \$26,643,684.79 in SUPERB funds was committed through current contracts for site rehabilitation activities leaving an available SUPERB balance of \$4,023,163.22 (Table 1). The uncommitted balance reflects the amount in the South Carolina Enterprise Information System (SCEIS) system as of COB on December 31, 2023. The revenues for December were deposited in January 2024. The cumulative expenditures since 1988 total \$589,434,779.17. (See Appendix 4 for three-year comparison data)

Section 44-2-90 of the SUPERB Act was ratified to repeal the sunset date during the 2019-2020 Legislative session. Senate Bill 525 passed both the Senate and the House with near unanimous support. It was signed by the Governor and became effective on March 24, 2020, as 2020 Act No. 120, § 1.

Additional funding for the UST Program is received from UST tank fees (currently \$100 per tank) and two federal grants (LUST Trust Prevention and LUST Trust Cleanup). These monies are used for administrative expenses to maintain federally delegated State Program Approval (SPA).

Increases in penalties received are primarily due to modifications to Part 1 violations where base values were increased from \$1,000 to \$3,000 per violation. In addition, these base penalties were adjusted upward based on the following justifications: willful and negligent, extent of deviation from requirements of the regulation, past performance record/history of violations, and degree of harm to the environment.

Table 1. SUPERB Account information as of December 31, 2023

REVENUE	
Impact Fee Revenue	\$20,203,595.79
Additional Tank Fee Revenue	\$8,990.14
Interest Revenue	\$696,263.41
Penalties received	\$266,317.12
Total Revenue Received	\$21,175,166.46
Beginning Cash Balance	\$29,830,748.10
Total Available CY	\$51,005,914.56
EXPENDITURES	
Site Rehabilitation	\$17,723,910.97
Administrative Expenses	\$2,615,156.58
Total Expenditures	\$20,339,067.55
Cash Balance	\$30,666,847.01
Commitments	\$26,643,684.79
Available for Commitment	\$4,023,162.22
Cumulative Spent since 1988	\$589,434,779.17

SUPERB Financial Responsibility Fund (SFRF)

DHEC actively participates in third party claim resolutions as allowed for in Section 44-2-40 of the SUPERB Act. DHEC is currently aware of no active third-party claims or suits, and no claim was resolved during the 2023 calendar year. A total of \$1,505,165.02 has been spent for claims, legal fees, and appraisal activities since the creation of this fund in 1993. There was no monthly transfer from SUPERB Account during the calendar year 2023. As of December 31, 2023, the SFRF balance was \$2,144,860.39.

Financial Responsibility for the State Fund Deductible

The SUPERB Act requires that UST owners and operators demonstrate financial responsibility (FR) for \$25,000 per UST leak occurrence as the SUPERB Account provides the remaining required coverage. Allowable FR options include self-insurance, environmental insurance, guarantee, surety bond, letter of credit, trust fund, and several local government options. An owner or operator is also required to maintain FR for a UST that has been permanently closed until corrective action has been completed. Of the 3,959 facilities or tank owners/operators that require proof of financial responsibility, fifty-four percent (54%) are covered by self-insurance, twenty percent (20%) by environmental insurance, eleven percent (11%) by guarantees, seven percent (7%) by letters of credit, four percent (4%) by surety bonds and trust funds, two percent (2%) by local government options, and the remaining two percent (2%) of facilities or

responsible parties (owner/operator) are in violation of R.61-92 or are new owners required to submit FR.

Cleanup Progress

Since the inception of the program and through December 31, 2023, DHEC has confirmed a total of 10,917 UST releases. Of these, 8,790 or just over 81% have been closed. A total of 207 releases were closed in calendar year 2023; of these, 31 releases were closed under the regulatory program where no site rehabilitation activities were required, 80 releases were closed under the assessment program where some assessment activities were completed, and 96 releases were closed under an approved Corrective Action Plan for either Monitored Natural Attenuation or Active Corrective Action.

SUPERB funds were expended on 101 of the 207 releases. The remaining 75 release closures aside from the 31 regulatory closures were comprised of 59 release closures under the \$25,000 deductible and 17 release closures where SUPERB funds could not be used to provide coverage (e.g., site could not be qualified, or another financial mechanism was in place). Pay for Performance contracts, often referred to as active cleanups, can take more than five years to complete. To foster quicker cleanups, current specifications for active corrective action sites now require the site rehabilitation work to be completed within five years unless DHEC provides written approval to extend the duration of the contract. DHEC continues to make contract modifications as necessary in consultation with the Office of General Counsel and Office of Business Management to enhance contract management for active corrective action cleanups.

At year's end, there were 2,127 open releases, of which 2,087 are eligible to receive SUPERB funds. Confirmed releases are ranked by DHEC for funding priority according to the risk each poses. The priority system is outlined in the SUPERB Fund Access Regulations (R.61-98). Appendix 1 of this report depicts the total number of SUPERB eligible releases by their risk category and Appendix 2 depicts this number by county. Appendix 3 depicts the number of cases, by risk category, where rehabilitation activity is being funded and the number where no funding is provided.

For SUPERB eligible releases as of December 31, 2023, 101 releases were in active cleanup, 75 releases were in limited cleanup with free product removal activities being conducted, and 147 releases were being monitored as part of a formalized natural attenuation remedial plan. Site rehabilitation activities were being conducted at another 1,593 releases. Most site rehabilitation activities are funded by SUPERB or by the UST owner under the \$25,000 SUPERB deductible.

Over the 2023 calendar year, a total of 5 project managers left and 6 project managers' job duties were modified in the Corrective Action and Assessment Sections. 4 new project managers were hired. As of December 31, 2023, there were 3 project managers vacancies for the Corrective Action and Assessment Sections. These vacancies are anticipated to be filled in early 2024. Once at full staff, 24 project managers will be providing oversight on the active UST releases.

Quality Assurance Program Plan

The UST Program Quality Assurance Program Plan (QAPP) Revision 4.0 was approved by the Environmental Protection Agency (EPA) and implemented in August 2021. The purpose of the QAPP is to ensure that all data produced and reported to DHEC is scientifically valid, legally defensible, and of known and acceptable precision and accuracy. Between January 1, 2023, and December 31, 2023, 1,130 reviews of QAPP Addendums and Site-Specific Work Plans were completed. Since implementation of

the QAPP, UST Management Division has worked closely with contractors to facilitate the review process. Based on experience and feedback from contractors, the latest revision of the QAPP includes changes designed to streamline the process and improve efficiency of implementation. Once the annual contractor quality assurance plan (ACQAP) has been approved, the contractor is only required to submit a two-page work plan with a few attachments for each scope of work. As of December 31, 2023, DHEC has received and approved 61 ACQAPs.

Underground Storage Tank Information

Since 1986, there have been 47,404 petroleum USTs registered with DHEC. Of those, 35,356 have been removed from the ground or properly closed in place. As of December 31, 2023, there were 10,995 operating USTs at 3,925 locations across the state owned by 1,974 individuals or companies. A total of 1,053 USTs are registered but not subject to fee requirements. Therefore, they are not accounted for in the operating UST number.

In response to the 2015 Federal UST regulation revisions, EPA updated the existing compliance measures and added new measures. These updates supersede the SOC measures. The new measure of compliance is now called the Technical Compliance Rate (TCR). DHEC has been calculating TCR since May 26, 2020, and began reporting to EPA during the fourth quarter of the 2020 federal fiscal year. The TCR for the 2023 reporting period from January 1, 2023, to December 31, 2023, is 60%. The National TCR for 2022 was 56.5%. The National target TCR for 2024 is 57.5%.

Table 2. Technical Compliance Rate

Calendar Year	DHEC
2023	60%
2022	63%
2021	49%
2020**	45%

**partial data; 5/26/2020-12/31/2020

Electronic Inspections

In April 2013, DHEC began development of a custom electronic inspection program to be used to inspect all UST facilities in South Carolina. With implementation of this electronic system, DHEC has benefitted from paperless operations, improved data quality, consistent violation documentation, enhanced compliance assistance and reporting. Statewide deployment began in December of 2013, and 33,701 facility inspections have been performed to date using the tablets, with 2,945 conducted in 2023.

Release Rate

For the 2023 reporting period, a total of 109 new releases were confirmed. Seventy-eight (78) of these were forwarded to the assessment section for site rehabilitation activities and 31 were issued a regulatory no further action (NFA). Of the 109 confirmed releases, 102 new releases were confirmed from facilities with currently in use tanks, of which 73 were forwarded to the assessment section and 29 were issued a regulatory NFA. Regulatory NFA's are issued when sampling results are below the risk-based screening level. To determine the release rate, the DHEC divides the number of confirmed releases from currently in use tanks (102), by the total number of currently in use tanks (10,995). Therefore, a release rate of 0.93% is calculated for 2023.

DHEC amended the SC UST Control Regulation R.61-92, Part 280 on May 26, 2017. On May 26, 2020, operating UST facilities were required to perform annual and triannual tests for specific equipment. If the tests results failed for spill/overfill containment equipment or sump containment equipment, the facility was required to repair the equipment and perform a site check to identify any release to the environment.

Table 3. Annual Release Rate

Year	Total Number of confirmed Releases from facilities with currently in use tanks (Releases Forwarded to Assessment / Releases closed via Regulatory NFA)	Release Rate
2014	61(53 / 8)	61/11,610*100=0.52%
2015	102 (75 / 27)	102/11,511*100=0.89%
2016	67 (43 / 24)	67/11,429*100=0.59%
2017	114 (89 / 25)	114/11,340*100=1%
2018	98 (62/36)	98/11,273*100=0.87%
2019	109 (76/33)	109/11,191*100=0.97%
2020	128 (84/44)	128/11,156*100=1.15%
2021	191 (118/73)	191/11,055*100=1.73%
2022	100 (70/30)	100/10,982*100=0.91%
2023	102 (73/29)	102/10,995*100=0.93%

Revisions to State UST Regulations, R. 61-92, Part 280

DHEC amended the SC UST Control Regulation R. 61-92, Part 280 on May 26, 2017, in response to revisions to the Federal UST Regulations which became effective October 13, 2015. DHEC continues to foster collaboration with the regulated community and stakeholders through compliance assistance and outreach initiatives to assist tank owners/operators with the new regulatory requirements.

DHEC continued its quarterly meetings with industry contractors. The goal of these meetings is to create dialogue and develop a collaborative partnership. These meetings continue to be well attended and the group will continue to meet quarterly in 2024.

DHEC staff hosted a booth at the Southeast Food and Petro Expo in Myrtle Beach, SC in March 2023 and will do so again in March of 2024.

Recommendations:

Appendix 1

SUPERB Eligible Releases by Risk Category As of December 31, 2023

Risk Category	Open Releases									
	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014
1	144	160	159	183	181	174	154	148	136	134
2A	112	111	120	105	107	102	105	100	104	112
2B	611	627	642	627	666	682	713	731	747	772
3A	91	99	100	95	86	73	63	59	63	54
3B	770	785	790	785	797	788	758	752	770	784
4A	168	170	175	188	187	186	189	192	193	203
4B	88	103	99	100	111	116	116	116	123	121
5	103	125	136	138	135	139	144	119	129	109
Total	2,087	2,180	2,221	2,221	2,270	2,260	2,242	2,217	2,265	2,289

Risk Category Definitions:

- Category 1 Emergency situation; a fire or explosion hazard; vapors or free product in a structure or utility; concentrations of chemicals of concern have been detected in a potable water supply or surface water supply intake; free product exists on surface water; chemicals of concern exist in surface water.
- Category 2A Threat to human health or environment is predicted to be less than 1 year.
- Category 2B Drinking well identified less than 1,000 feet away.
- Category 3A Threat to human health or the environment is predicted to be 1 to 2 years.
- Category 3B Release in shallow groundwater with migration expected.
- Category 4A Threat to human health or the environment is predicted to be greater than 2 years.
- Category 4B Release in shallow groundwater with minimal migration expected.
- Category 5 Needs further assessment or additional data.

Appendix 2

SUPERB Eligible Releases by Risk Category and County As of December 31, 2023

County	Risk Category								Total
	1	2A	2B	3A	3B	4A	4B	5	
Abbeville	4	0	7	0	2	3	2	2	20
Aiken	0	1	8	2	14	8	4	3	40
Allendale	0	0	4	0	8	2	1	0	15
Anderson	4	5	8	6	35	14	0	3	75
Bamberg	0	1	5	0	3	0	0	0	9
Barnwell	0	2	8	2	2	2	1	1	18
Beaufort	0	2	6	1	10	0	0	0	19
Berkeley	0	1	17	2	24	1	4	1	50
Calhoun	0	1	1	0	5	1	0	0	8
Charleston	2	5	10	2	52	0	0	4	75
Cherokee	1	2	8	2	11	2	2	1	29
Chester	9	1	9	0	14	1	3	4	41
Chesterfield	3	1	4	0	7	1	1	3	20
Clarendon	8	6	18	0	14	0	2	1	49
Colleton	2	1	12	0	13	0	0	0	28
Darlington	1	0	16	0	24	1	2	1	45
Dillon	5	0	5	0	16	0	1	0	27
Dorchester	4	0	11	0	18	1	0	2	36
Edgefield	2	0	4	1	5	0	2	5	19
Fairfield	4	0	11	0	4	0	0	0	19
Florence	6	2	39	0	38	0	10	7	102
Georgetown	0	0	8	5	13	0	0	3	29
Greenville	9	4	27	10	96	18	11	6	181
Greenwood	4	1	13	0	13	9	1	3	44
Hampton	1	1	8	0	5	0	0	0	15
Horry	6	9	32	8	39	0	0	6	100
Jasper	2	4	15	1	10	1	0	0	33
Kershaw	3	2	3	0	9	1	1	3	22
Lancaster	2	1	24	5	18	5	7	1	63
Laurens	2	0	18	2	16	11	2	2	53
Lee	0	2	4	0	1	0	0	0	7
Lexington	3	3	25	7	32	5	5	8	88
Marion	4	2	9	3	11	0	0	3	32
Marlboro	3	1	12	0	11	1	1	1	30
McCormick	1	0	7	0	1	3	0	0	12
Newberry	2	5	15	3	10	3	2	1	41
Oconee	2	2	7	1	6	2	0	1	21
Orangeburg	3	3	38	0	23	0	0	0	67
Pickens	1	2	3	1	9	3	2	1	22
Richland	7	13	26	10	30	6	3	11	106
Saluda	2	1	2	0	10	0	0	1	16
Spartanburg	6	4	26	4	33	51	14	7	145
Sumter	8	8	37	5	16	1	0	2	77
Union	0	0	3	1	5	2	0	2	13
Williamsburg	3	4	16	2	14	1	0	0	40
York	15	9	22	5	20	9	4	3	87

Appendix 3

SUPERB Eligible Releases by Risk Category Work Ongoing or Not Currently Working As of December 31, 2023

Risk Category	Work Currently Ongoing With SUPERB Funds or under the \$25,000 Deductible¹	Not Currently Working Awaiting SUPERB Funding or under the \$25,000 Deductible
1	144	0
2A	112	0
2B	594	17 ²
3A	87	4 ²
3B	741	29
4A	108	60
4B	42	46
5	88	15
Total	1,916	171

In accordance with the SUPERB Site Rehabilitation and Fund Access Regulations R.61-98, Section II.B., UST releases, regardless of its time of occurrence, shall be classified accordingly:

¹SUPERB funds are available for the current scope of work and ongoing site rehabilitation activities (e.g., IGWA, Tier I, Tier II, AFVR, MNA, ACA) based on high priority or anticipation of a cleanup complete measure. Includes releases where the Owner/Operator is conducting activities under the deductible (includes a subset of 305 releases where the \$25,000 deductible has not been met).

²SUPERB funds are available for the next scope of work but currently no site rehabilitation work is funded (e.g., awaiting a decision from the owner/operator, between active scopes of work with new work pending process review and funding, ongoing enforcement actions, RP resolutions, etc.). This number may include the subset of 7 releases working strictly under the \$25,000 SUPERB deductible. However, all \$25,000 deductible sites are being actively worked or pursued to start work.

Appendix 4

SUPERB Account Information (3-Year) As of December 31, 2023

REVENUE			
	2023	2022	2021
Impact Fee Revenue	\$20,203,595.79	\$19,846,887.34	\$19,931,191.03
Additional Tank Fee Revenue	\$8,990.14	\$18,250.06	\$19,610.06
Interest Revenue	\$696,263.41	\$417,212.07	\$533,368.59
Penalties received	\$266,317.12	\$283,657.62	\$76,225.21
Total Revenue Received			
	\$21,175,166.46	\$20,566,007.09	\$20,560,394.89
Beginning Cash Balance	\$29,830,748.10	\$26,940,882.57	\$29,685,967.82
Total Available CY	\$51,005,914.56	\$47,506,889.66	\$50,246,362.71
EXPENDITURES			
Site Rehabilitation	\$17,723,910.97	\$15,309,897.78	\$21,033,050.93
Administrative Expenses	\$2,615,156.58	\$2,366,243.78	\$2,272,429.21
Total Expenditures	\$20,339,067.55	\$17,676,141.56	\$23,305,480.14
Cash Balance			
	\$30,666,847.01	\$29,830,748.10	\$26,940,882.57
Commitments	\$26,643,684.79	\$27,110,861.72	\$25,644,503.96
Available for Commitment	\$4,023,162.22	\$2,719,886.38	\$1,296,378.61
Cumulative Spent since 1988	\$589,434,779.17	\$569,095,711.62	\$551,419,570.06