



2020 Annual Report

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 current 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 2020 totaled \$16,827,247.62 and the total revenue received including impact fee revenue, additional tank fees, and interest totaled \$17,591,236.16 (Table 1). SUPERB expenditures during calendar year 2020 totaled \$22,954,137.33. As of December 31, 2020, a total of \$26,294,472.73 in SUPERB funds was committed through current contracts for site rehabilitation activities leaving an available SUPERB balance of \$3,391,495.09 (Table 1). The uncommitted balance reflects the amount in the South Carolina Enterprise Information System (SCEIS) system as of COB on December 31, 2020. For the calendar year 2020 eleven revenue entries are reflected instead of twelve. The revenues for December were deposited in January 2021. The cumulative expenditures since 1988 total \$528,114,089.92.

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.

Table 1. SUPERB Account information as of December 31, 2020

REVENUE	
Impact Fee Revenue	\$16,827,247.62
Additional Tank Fee Revenue	\$34,375.53
Interest Revenue	\$701,279.36
Penalties received	\$28,333.65
Total Revenue Received	\$17,591,236.16
Beginning Cash Balance	\$35,046,567.35
Total Available CY	\$52,637,803.51
EXPENDITURES	
Site Rehabilitation	\$20,790,072.61
Administrative Expenses	\$2,164,064.72
Total Expenditures	\$22,954,137.33
Transfers	(\$2,301.64)
Cash Balance	\$29,685,967.82
Commitments	\$26,294,472.73
Available for Commitment	\$3,391,495.09
Cumulative Spent since 1988	\$528,114,089.92

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 2020 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 2020. As of December 31, 2020, the SFRF balance was \$2,030,666.16.

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 Accounts provide 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. Of the 4,110 facilities or tank owners/operators that require proof of financial responsibility, fifty-five percent (55%) are covered by self-insurance, seventeen percent (17%) by environmental insurance, twelve percent (12%) by guarantees, eight percent (8%) by letters of credit, five percent (5%) by surety bonds and trust funds, two percent (2%) by local government options, and the remaining one percent (1%) 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, 2020, DHEC has confirmed a total of

10,505 UST releases. Of these, 8,223 or just over 78% have been closed. A total of 154 releases were closed in calendar year 2020; of these, 44 releases were closed under the regulatory program where no assessment activities were required, 23 releases were closed under the assessment program where some assessment activities were completed, and 87 releases were closed under an approved Corrective Action Plan for either Monitored Natural Attenuation or Active Corrective Action. SUPERB funds were expended on 81 of the 154 releases. The remaining 73 release closures aside from the 44 regulatory closures were comprised of 15 release closures under the \$25,000 deductible and 14 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. In order 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. Significant contract modifications have been reviewed by the Office of General Counsel to enhance contract requirements which should result in a greater efficiency of producing more active cleanups.

At year's end, there were 2,282 open releases, of which 2,221 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, 2020, 130 releases were in active cleanup, 97 releases were in limited cleanup with free product removal activities being conducted, and 220 releases were being monitored as part of a formalized natural attenuation remedial plan. Site rehabilitation activities were being conducted at another 1,602 releases. A majority of site rehabilitation activities are funded by SUPERB or by the UST owner under the \$25,000 SUPERB deductible.

Over the 2020 calendar year, a total of 4 project managers left the Corrective Action and Assessment Sections and 8 project managers were hired. As of December 31, 2020, there was 1 project manager vacancy for the Assessment Section and anticipated to be filled in early 2021. Once at full staff, 26 project managers will be providing oversight on the active UST releases.

Quality Assurance Program Plan

The UST Program Quality Assurance Program Plan (QAPP) Revision 3.1 was approved by the Environmental Protection Agency (EPA) and implemented in August 2016. 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, 2020 and December 31, 2020, 1,216 reviews of QAPP Addendums and Site-specific Work Plans were completed. Since implementation of the QAPP, UST Program staff 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, 2020, DHEC has received and approved 54 ACQAPs.

Underground Storage Tank Information

Since 1986, there have been 46,856 petroleum USTs registered with DHEC. Of those, 34,669 have been removed from the ground or properly closed in place. As of December 31, 2020, there were 11,156 operating USTs at 3,988 locations across the state owned by 2,016 individuals or companies.

Historically, EPA required reporting on the percentage of UST facilities deemed to be in combined significant operational compliance (SOC) with both the UST spill, overfill, and corrosion protection requirements and the UST leak detection requirements. The SOC rate included in this report is based on measurements of compliance data reported between January 1, 2020 and May 25, 2020. As such, the 2020 SOC rate in this report is not based on a twelve-month period as in previous years. DHEC reported that 67% of the 657 UST facilities inspected between January 1, 2020 and May 25, 2020 met both the release prevention and release detection requirements and were in SOC. The SOC rate is affected by many factors including tank population, number of inspections performed, tank owner compliance, and other factors.

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. SOC rates should not be compared to TCR rates, as the TCR rate includes additional compliance measurements. The TCR for the 2020 reporting period from May 26, 2020 to December 31, 2020 is 45%. The TCR will be included in all future committee reports.

Table 2. Significant Operational Compliance

Calendar Year	DHEC
2020**	67%
2019	65%
2018	70%
2017	65%
2016	63 %
2015	68 %
2014 *First full year of performing electronic inspections	73 %
2013	76 %
2012	77 %
2011	79 %

**partial data; 1/1/2020-5/25/2020

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 24,452 facility inspections have been performed to date using the tablets, with 2,392 conducted in 2020.

Release Rate

For the 2020 reporting period, a total of 138 new releases were confirmed. Ninety-four (94) of these were forwarded to the assessment section and 44 were issued regulatory no further actions. Of the 138 confirmed releases 128 new releases were confirmed from facilities with currently in use tanks, of which 84 were forwarded to the assessment section for site rehabilitation activities and 44 were issued regulatory no further actions. Regulatory no further actions 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 (128), by the total number of currently in use tanks (11,156). Therefore, a release rate of 1.15% is calculated for 2020.

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
2011	70 (39 / 31)	70/11,782*100=0.59%
2012	82 (50 / 32)	82/11,792*100=0.69%
2013	87 (61 / 26)	87/11,749*100=0.74%
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%

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. In preparation for the revisions, DHEC's goals were to foster collaboration with the regulated community and interested stakeholders, exhibit transparency in regulation development activities, and demonstrate accountability.

DHEC continued its efforts to include the regulated community during the regulation implementation and compliance process through quarterly industry workgroup meetings. The goal of these meetings are to create dialogue and develop a collaborative partnership with industry leaders in compliance operations while receiving feedback on implementation of the newly amended regulations. These meetings continue to be well attended and the workgroup will continue to meet quarterly in 2021.

DHEC continues to develop outreach initiatives to assist tank owners/operators with the new regulatory requirements. During the first quarter of 2020, DHEC hosted of a series of morning and afternoon regulatory workshops scheduled at several locations across the state to inform the regulated community of the new regulation requirements. Attendees were provided with an opportunity to complete the supplemental A/B operator training exam. DHEC staff also hosted a booth and conducted an

information session at the Southeast Food and Petro Expo in Myrtle Beach, SC in March 2020 and will do so again in May of 2021.

Continuous Improvement Action Plan

Following recommendation by the committee in 2018, DHEC developed an action plan to maximize operational efficiencies, increase cleanup activities and SUPERB fund commitments, and improve consistency throughout the program while providing exemplary customer service. DHEC continues to implement several processes that continues to reveal operational efficiencies for the UST program and expected measurable improvements over time. Additionally, DHEC strives to implement initiatives that deliver consistent customer service and compliance assistance to tank owners /operators and other stakeholders.

Recommendations

Appendix 1

SUPERB Eligible Releases by Risk Category As of December 31, 2020

Risk Category	Open Releases								
	2020	2019	2018	2017	2016	2015	2014	2013	2012
1	183	181	174	154	148	136	134	152	160
2A	105	107	102	105	100	104	112	105	114
2B	627	666	682	713	731	747	772	797	818
3A	95	86	73	63	59	63	54	46	47
3B	785	797	788	758	752	770	784	818	879
4A	188	187	186	189	192	193	203	204	182
4B	100	111	116	116	116	123	121	128	134
5	138	135	139	144	119	129	109	122	137
Total	2,221	2,270	2,260	2,242	2,217	2,265	2,289	2,372	2,471

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 Data currently inconclusive

Appendix 2

SUPERB Eligible Releases by Risk Category and County as of December 31, 2020.

County	Risk Category								Total
	1	2A	2B	3A	3B	4A	4B	5	
Abbeville	4	0	9	1	3	2	2	0	21
Aiken	2	1	10	2	12	7	1	3	38
Allendale	0	0	4	0	9	1	1	0	15
Anderson	5	2	12	4	42	10	1	9	85
Bamberg	0	1	7	0	3	0	0	1	12
Barnwell	1	2	6	2	5	0	0	0	16
Beaufort	1	2	4	3	13	0	0	3	26
Berkeley	0	0	18	2	23	0	2	3	47
Calhoun	1	0	1	0	5	0	0	1	8
Charleston	4	3	7	0	69	0	1	3	87
Cherokee	1	2	8	2	12	2	5	1	33
Chester	9	2	10	0	14	0	2	3	40
Chesterfield	5	1	6	0	4	1	3	1	21
Clarendon	10	5	25	0	10	0	2	3	55
Colleton	3	2	11	1	11	0	0	0	28
Darlington	1	0	15	0	25	1	5	1	48
Dillon	9	0	11	2	9	1	3	1	36
Dorchester	4	1	11	0	16	1	0	2	35
Edgefield	1	0	5	1	6	0	1	2	156
Fairfield	5	2	8	0	4	1	1	1	22
Florence	5	2	41	0	43	1	11	2	105
Georgetown	2	0	7	5	12	0	0	1	27
Greenville	9	5	34	13	77	36	18	27	219
Greenwood	2	1	14	1	10	11	3	2	44
Hampton	1	2	10	1	5	0	2	0	21
Horry	3	12	32	10	48	0	1	1	107
Jasper	1	6	17	1	7	1	0	0	33
Kershaw	3	2	2	0	11+	0	0	5	23
Lancaster	5	1	21	3	15	6	7	3	61
Laurens	3	0	19	2	13	9	1	7	54
Lee	0	2	6	0	1	0	0	0	9
Lexington	9	2	24	7	33	6	5	6	92
Marion	2	1	15	1	16	1	0	1	37
Marlboro	3	2	12	0	11	1	1	2	32
McCormick	3	0	5	0	6	0	0	1	15
Newberry	3	4	18	3	14	1	3	1	47
Oconee	5	1	4	2	7	4	0	0	23
Orangeburg	2	5	32	0	29	1	1	6	76
Pickens	1	0	5	1	8	3	1	3	22
Richland	11	9	25	6	27	14	2	12	106
Saluda	3	0	2	0	10	0	0	0	15
Spartanburg	6	5	27	4	44	57	12	6	161
Sumter	9	6	26	6	17	2	3	2	71
Union	3	0	2	1	4	2	0	0	12
Williamsburg	6	5	16	3	13	1	0	1	45
York	17	6	24	5	25	12	8	2	99

Appendix 3
SUPERB Eligible Releases by Risk Category
Work Ongoing or Not Currently Working
As of December 31, 2020

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	183	0
2A	104	1 ²
2B	613	14 ²
3A	91	4 ²
3B	758	27
4A	107	81
4B	44	56
5	103	35
Total	2003	218

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 254 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 4 releases working strictly under the \$25,000 SUPERB deductible. However, all \$25,000 deductible sites are being actively worked or pursued to start work.