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An Analysis of State Superfund Programs: 50-State Study

1991 Update



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**AN ANALYSIS OF STATE
SUPERFUND PROGRAMS:
50-State Study, 1991 Update**

U.S. Environmental Protection Agency
Office of Emergency and Remedial Response
Hazardous Site Control Division
Washington, DC 20460

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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LIST OF ACRONYMS

AG	- Attorney General
ARARs	- Applicable or Relevant and Appropriate Requirements
ASTSWMO	- Association of State and Territorial Solid Waste Management Officials
CA	- Cooperative Agreement
CERCLA	- Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CERCLIS	- Comprehensive Environmental Response, Compensation, and Liability Information System
CPCA	- Core Program Cooperative Agreement
DSMOA	- Department of Defense and State Memorandum of Agreement
ELI	- Environmental Law Institute
FTE	- Full-time Equivalent
GAO	- General Accounting Office
HRS	- Hazard Ranking System
LUST	- Leaking Underground Storage Tank
MCL	- Maximum Contaminant Level
MSCA	- Multi-Site Cooperative Agreement
NBAR	- Non-Binding Allocation of Responsibility
NCP	- National Oil and Hazardous Substances Pollution Contingency Plan
NPL	- National Priorities List for Uncontrolled Hazardous Waste Sites
OGC	- Office of General Counsel
O&M	- Operation and Maintenance
PA/SI	- Preliminary Assessment/Site Investigation
PRP	- Potentially Responsible Party
RA	- Remedial Action
RCRA	- Resource Conservation and Recovery Act
RD	- Remedial Design
RI/FS	- Remedial Investigation/Feasibility Study
ROD	- Record of Decision
RP	- Responsible Party

- SACA** - Support Agency Cooperative Agreement
- SARA** - Superfund Amendments and Reauthorization Act of 1986
- SMOA** - Superfund Memorandum of Agreement
- TAG** - Technical Assistance Grant
- UST** - Underground Storage Tank

CHAPTER I

INTRODUCTION

In the eleven years since passage of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA, generally referred to as Superfund), the enormity of the problems associated with hazardous waste sites has become overwhelmingly apparent. Coordinated cleanup efforts between Federal and State authorities are currently treating numerous sites targeted by the National Priorities List (NPL). Still, a vast number of known or suspected waste sites are not eligible for inclusion on the NPL and, if they are to be addressed, they will have to be cleaned up by the States. In certain cases States may feel compelled to respond in a manner that is more stringent or timely than might be possible in joint Federal-State efforts. Where joint efforts are required, Federal and State authorities need to ensure that their actions are mutually supportive but not duplicative. For these reasons, the role of the States in addressing hazardous waste sites, independently and in concert with the Federal government, will become increasingly important as the numbers of both NPL and non-NPL sites grow.

States now are responsible for enforcing or funding cleanups at non-NPL sites; at NPL sites, their responsibility ranges from required cost sharing at Federal Fund-lead cleanups to lead action in site activities. The prospects for increasing State involvement at both NPL and non-NPL sites depend on the willingness and capacity of States to develop effective programs, and obtain adequate State resources to fund cleanups, pursue enforcement to obtain private cleanups, and conduct oversight activities.

A key step in enhancing the Federal-State partnership on Superfund is to understand State superfund programs aimed at NPL and non-NPL sites. This is the object of the present report, which updates the results of a study initially conducted in 1989, and updated in 1990, by the Environmental Law Institute (ELI) for the U.S. Environmental Protection Agency's Office of Emergency and Remedial Response, Hazardous Site Control Division, State and Local Coordination Branch. The study examines site cleanup capabilities in all 50 States and provides descriptions of statutes, program organization, funding, and cleanup procedures. This year the District of Columbia and the Commonwealth of Puerto Rico were added, so that the "50-State Study" now contains information from 52 jurisdictions. In place of the 1990 update's analysis of political subdivision involvement in the cleanup process, this 1991 update analyzes the property transfer provisions of States superfund programs in Chapter IV. The report provides detailed information for each State in a "State Summaries" chapter and in all State tables that facilitate comparisons between States. The 1991 Tables include the District of Columbia and the Commonwealth of Puerto Rico but the 1989 and 1990 Tables did not. Thus, comparisons of aggregate data must take into account the addition of the two jurisdictions. Throughout this report, references to "States" are intended to include both the District of Columbia and Puerto Rico.

Purpose of the Study

Under the Superfund Amendments and Reauthorization Act (SARA) of 1986, Congress requires the EPA to involve States in the Superfund program in a "substantial and meaningful" way. The State and Local Coordination Branch (SLCB) is responsible for developing regulations, guidance, and policy related to this Congressional mandate. As part of its responsibilities, the SLCB tries to maintain comprehensive information about State capabilities to contribute to or manage cleanups at hazardous waste sites. Under a cooperative agreement with EPA, ELI has collected, organized, and summarized the information presented here on State cleanup programs.

Research Methodology

To ensure that the information for this report is complete, accurate, and up to date, the project team spent several weeks gathering and analyzing research reports, statutes, regulations, and other State documents, interviewing State program staff by telephone, and confirming information for each State. ELI initially reviewed both information gathered for the 1990 version of the report and newer information concerning State cleanup programs as found in State documents, legislative reporting services, newsletters, and EPA documents. Worksheets were developed to organize information on each State. Based on the contents of these worksheets, ELI drafted requests for information tailored to each State program. A detailed request for information was sent to each State, along with a general request for copies of any relevant legislative amendments or State reports. In addition to the responses to the detailed requests for updated program information, ELI received a variety of materials from the States, including annual program status reports, legislative amendments, program descriptions, and regulations.

ELI then conducted telephone interviews to obtain information that was not provided in response to the requests for information, to clarify ambiguities in the information provided, and to confirm information that had previously been compiled. ELI used this new information to update the two-page summaries of State programs. ELI then sent each State program office the revised 1991 summary for that State for review; appropriate changes were made in response to State officials' corrections. The 1990 set of tables for all the States was also revised to reflect the new information, including information for the two jurisdictions added to the 1991 update. These are presented in Chapters V and VI.

Organization of the Report

The remainder of this report is divided into three substantive chapters. Chapter II highlights the more noteworthy developments in State capabilities that emerged in comparing the 1991 information with the 1989 and 1990 data. An overview of State superfund programs is provided in Chapter III. This overview examines statutes, program funding and organization, enforcement, and the remediation process. Chapter IV discusses State property transfer programs. Chapter V presents program information arranged in tables that facilitate comparisons between States. Chapter VI contains the two-page

summaries of each State program. For those States that do not have superfund programs, the summaries focus on States' capabilities to address hazardous waste sites using other authorities and resources.

In assembling this report, ELI has tried to take a "snapshot" of State cleanup programs even though they are in constant flux and information about them is continuously being updated. For the purposes of this report, we have used State information that was available on or before December 2, 1991. States were provided an opportunity to review and update all of the information in the State Summaries; 38 States provided revised program information and the remaining 14 States affirmed that the State summaries were accurate.

CHAPTER II

DEVELOPMENTS IN STATE PROGRAMS

The extent of the States' involvement in the remediation of hazardous waste sites is a function of their capacity to develop and implement effective cleanup programs. This capacity can be assessed through an examination of the resources available to the States for cleanup purposes--statutory authority, funding, and staff--as presented in this report. In comparing the 1989 and 1990 data concerning these resources with the information that was collected in 1991 for the current version of this study, it is clear that the States' programs have continued to develop, but that the changes are less dramatic and more incremental than was the case in the late 1980s. The recession affected a number of States' programs, particularly New Jersey's where \$153.8 million was reallocated from a cleanup fund to balance the State budget.

An additional two States (Alaska and Kentucky) are now operating cleanup programs supported by enforcement authorities and dedicated funds, bringing the number of complete programs to 29. Only one State made fundamental changes to its statutory authority in the past year. In October 1990 Michigan's Governor signed legislation creating specific enforcement authority (effective July 1, 1991) under the State's superfund law.

The funding available at the State level has decreased 16% since 1990 but is still significantly higher than in 1989. The total of the unobligated balances available in the State Funds as reported in 1991 is \$586.2 million compared to \$699.4 million in 1990 and \$415 million in 1989. The entire decrease can be attributed to the decrease in New Jersey's balance in excess of \$148 million. The average of the Fund balances is \$11.27 million, compared to \$14.27 million in 1990 and \$8.3 million in 1989. Fifteen States, one more than 1990, have Fund balances in excess of \$10 million; there were nine such States in 1989. (These 15 large Funds, however, contain over 91% of the total State superfund balance.) Twenty nine States have less than \$5 million available for cleanups. A few States report that all or part of their relatively large cleanup funds were used to balance their State budgets at the end of Fiscal year 1991.

States spent or encumbered a total of at least \$427.7 million for cleanups in the past year. One State (California) encumbered more than \$50 million for cleanups in fiscal year 1991 and ten other States spent or encumbered more than \$10 million during the year (83.4% of the total).

Despite lower total funding levels, cleanup program staff levels continued to experience noteworthy increases during the past year, with 30 States reporting more staff in 1991 than in 1990. Only seven States report a decrease in cleanup program staff. A total of 3,656 State personnel, including attorneys, work on superfund programs.

These few statistics are simply the more outstanding indicators of an overall trend toward increased State cleanup capacity. A close examination of the information contained in this updated report will lead to a fuller understanding of the cleanup programs that are emerging as States continue to address the hazardous waste sites within their borders.

CHAPTER III

STATE "SUPERFUND" PROGRAMS

The passage of CERCLA in 1980 authorized the EPA to establish a Superfund program to address the risks posed by hazardous waste sites. Since CERCLA became law, many States have enacted laws and developed programs with authorities and capabilities similar to the Federal Superfund program. For the purposes of this study a State "superfund" program has some or all of the following characteristics:

- 1) procedures for emergency response actions and longer-term remediation of environmental and health risks at hazardous waste sites, including both NPL and non-NPL sites;
- 2) provisions for a fund or other financing mechanisms to pay for studies and remediation activities;
- 3) enforcement authorities to compel responsible parties (RPs) to conduct or pay for studies and/or remediation;
- 4) staff to manage publicly-funded cleanups and oversee RP-lead cleanups.

In this chapter, information on State "superfund" programs is presented for all 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. The latter two jurisdictions were added to the study in 1991 and are included in all the "Fifty-State" tables. This chapter highlights similarities and differences among State statutes and State programs in areas such as cleanup and oversight capabilities, cleanup standards, funding, enforcement authorities, program organization, and staffing.

A. Overview of Cleanup Activities and Capabilities

One of the goals of this project is to provide a general assessment of States' efforts and capabilities to address hazardous waste sites. This is a formidable task because of the dynamic nature of funding and the many changes that have occurred in the last few years. A number of States have enacted or amended existing "superfund" legislation within the last four years. Some of these States' programs have not reached optimal operational levels in terms of funding and staffing. Thus, in addition to the many programs that embody the "superfund" attributes above, there are a number of emerging programs that have only recently been authorized or received initial funds, or expect to receive funding in the near future.

A second project goal is to illustrate areas where the States are making progress in enhancing their cleanup capabilities. For some States, this may mean the passage of enabling legislation, while for others it may entail an increase in available funding or program staff.

Table V-1 summarizes States' capabilities and cleanup activities at the present time. Twenty-nine States with Funds and enforcement authorities are conducting programs for removals and remedial actions at non-NPL sites. This is an increase of two States with active cleanup and oversight programs (Alaska and Kentucky) since 1990. Some of these States also manage or oversee cleanups at NPL sites as well.

Twelve additional States have the legal capability to conduct public or RP-lead cleanups at non-NPL sites but have limited cleanup activities at present. Typically, the limited activity is attributable to relatively low Fund balances and/or inadequate staffing levels. In some instances, the State's Fund is replenished at specific time intervals and the lull in cleanup activities is temporary. Activities have so far been limited in several States as they establish program offices and hire staff. In some cases this is because legislation was only recently enacted (e.g., Delaware), while in others the legislation has existed for several years but funding has been lacking (e.g., Alabama).

Of the remaining eleven States, some lack enforcement authorities, others have funds only for NPL CERCLA match requirements (but not for state-lead removals or cleanups), and others lack any program. Nebraska and the District of Columbia are the only States without a cleanup Fund of any kind.

B. Statutes

Beginning in the early 1980s, many States enacted laws in the image of CERCLA that established State response funds. These statutes typically include provisions for enforcement authorities, a State priority list, and remedy selection criteria. In some States, provisions for a cleanup program and enforcement authorities may be contained in one statute, while a separate act creates a State response fund and defines its uses, and restrictions. Table V-2 provides a summary of the principal cleanup statutes and selected provisions for the fifty States, Puerto Rico and the District of Columbia.

The pace of change in State superfund statutes has slowed in the past two years, partly due to the fact that virtually all the States now have some type of cleanup statute. In 1991, only one new state, Michigan, passed a comprehensive Environmental Response Act that expanded its existing fund and program to include enforcement authorities and a property transfer program. A total of thirty-nine States now have statutes providing full Fund and enforcement capabilities. The remaining States have funds with limited capabilities and/or enforcement authorities in statutes that were not specifically intended to address hazardous waste sites. Ten States and Puerto Rico fall into this latter category (see section F of this chapter for more details). All States, except Nebraska and the District of Columbia, have a cleanup fund or an account that can be tapped for some or all types of cleanup costs (greater detail on funding is provided in Section E).

The greatest change occurred in the number of States which either make use of or are authorized to develop a priority list for State sites. Twenty-four States, three more than last year, reported the use of priority lists; Oregon, which was previously developing its list, now has it in place. A priority list typically is one of three types: (1) a list similar to the NPL comprised of sites identified by a minimum threshold score; (2) a ranking of sites that determines the order in which sites should be addressed; or (3) a multi-tiered list indicating the urgency and extent of remediation required. A number of States also have an inventory or registry of sites which are of particular interest to the State (see Section C below).

Seventeen States, two more than last year, have citizen suit provisions in their statutes. These provisions allow parties who are or will be adversely affected by a release or threat of a release of a hazardous substance to file a civil action requiring that the responsible parties prevent further damage or take corrective action. Courts may also assess civil penalties in civil actions filed by citizens. Citizen suits and property transfer programs (discussed below and in Chapter IV) provide alternative methods for accomplishing cleanups outside of the superfund process.

Fourteen States have provisions for compensating victims of hazardous waste releases. In eight States, this compensation is limited to reimbursement for costs of securing temporary or permanent alternative water supplies. The remaining five States are authorized to compensate victims for a broader array of release-related expenses. In practice, most claims are for replacement of water supplies or relocation.

A recent development at the State level is the property transfer program. The objective of a property transfer program is to ensure that real property, in the process of being transferred, does not pose health or environmental risks related to hazardous waste releases. For this Update, more extensive information was collected about property transfer programs in the States. A detailed analysis of these programs is contained in Chapter IV.

C. Hazardous Waste Sites

Estimates of hazardous waste sites in the fifty states vary greatly. Despite the uncertainty surrounding estimates of existing sites and the risks that they pose, the number of sites reported in a State can be indicative of the level of program activity, as well as the need for future cleanup activity. Table V-3 reports the number of sites contained in various categories of hazardous waste sites in each of the 50 States. Figure III-1 on page 10 shows the number of sites on the Federal NPL in each State.

The numbers of sites listed in each state are not always comparable. Different States use vastly different criteria to determine placement on the State's list of hazardous waste sites. For example, Vermont lists 1100 sites on its State Registry. This figure is high in comparison with other States of similar size. Vermont combines all hazardous waste issues into one program and includes all petroleum cleanup sites on its list of hazardous waste sites.

Each of the States lists the number of total known and suspected sites in the State (often this number is taken from CERCLIS, a database maintained by the EPA). The Total Number of Sites Needing Attention are those sites of the previous list that have been evaluated and determined to require some level of action. In addition to these two categories, some states maintain either a State registry or a priority list. In this year's study, the two separate categories of registry/inventory and priority list were merged into one category. This change was made because investigation revealed that some "priority lists" were not actually used to determine which sites should be addressed first while some "registries" were used for that purpose. Given this overlap in function continuing to distinguish the two categories seemed inappropriate.

Priority Lists and Registries

Many States have developed a registry or priority list to determine the order in which State sites will be remediated. Although each State attaches its own meaning to the priority list or registry, generally these lists indicate that the sites on the list have undergone an additional level of analysis. For the most part, such a list requires prioritization of sites through a ranking, scoring, or formal screening procedure. In Texas, the State Registry is statutorily mandated, and sites listed on it are ranked by priority.

In most cases, the list includes all the sites listed on the NPL. Some States, such as Connecticut, keep a registry that includes NPL sites as well as a sub-list of State-lead NPL sites, which in Connecticut includes five sites. Maryland compiles a Disposal Site Registry which is a list of ranked sites, including NPL sites, requiring remedial action. Maryland also keeps a Master List of sites that are not formally ranked but are evaluated in terms of potential hazards to public health and the environment, risks of fires and explosion, toxic hazard and other criteria established in CERCLA.

Ten States organize their ranked lists into priority areas or tiered ranks. California, for instance, has a three tiered priority list that includes immediate, substantial and limited threats for sites needing cleanup. Iowa and Missouri both maintain registries of hazardous waste sites that classify sites in a five-tiered system where sites are ranked in categories from immediate action required to no action required. Ohio's list is less formal, but contains sites categorized after a preliminary assessment as high, medium or low priority.

Ranking Systems

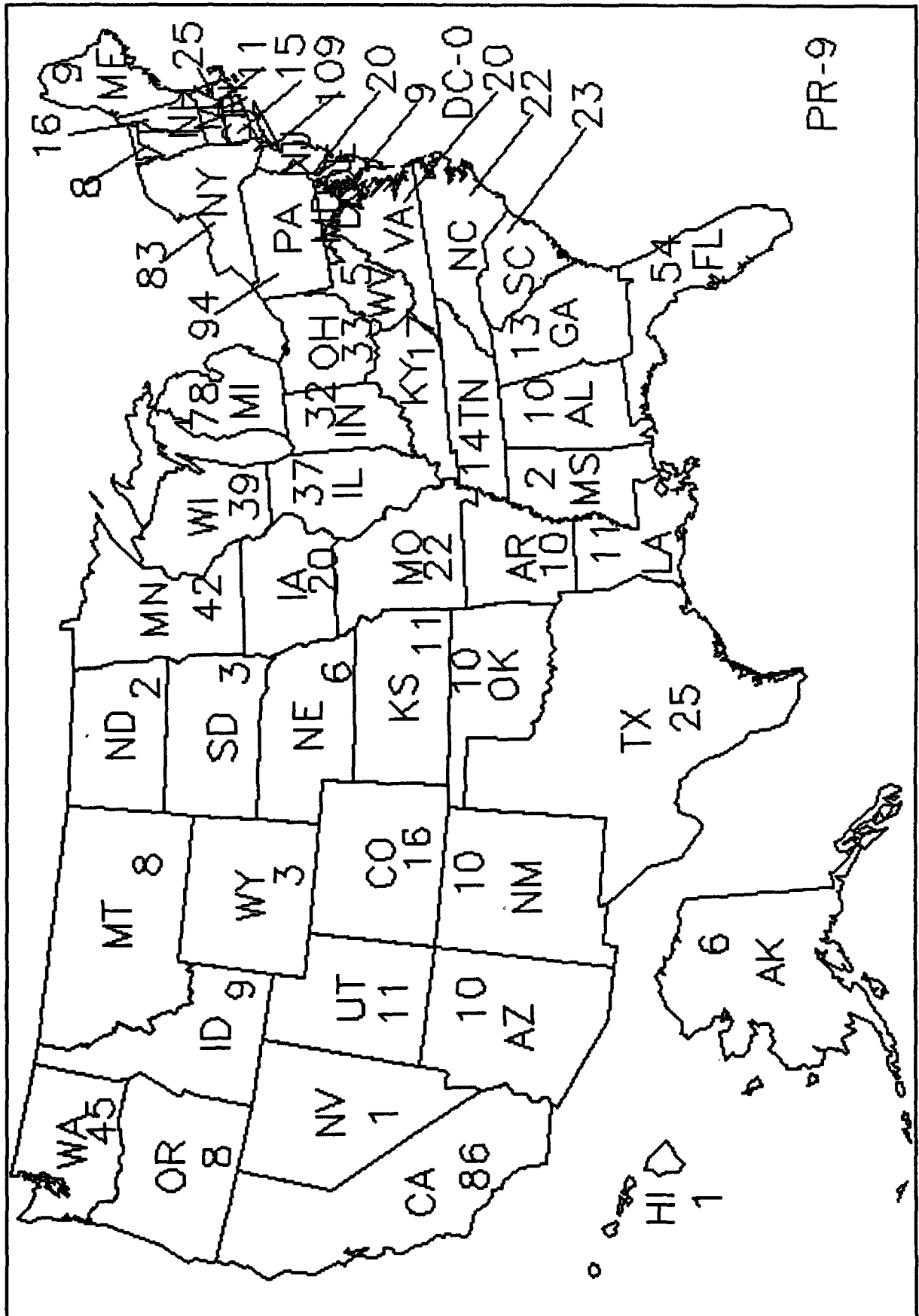
Not all States have a formal ranking system. Many, however, do categorize sites using one of several systems including the Federal Hazardous Ranking System (HRS II), modified HRS II, and other non-quantitative systems. Most States which use a formal ranking system use HRS II or HRS II with some modifications. HRS II, the ranking system that is used to determine the National Priorities List, was developed by the EPA and implemented in 1990 (replacing the original HRS). The original HRS was altered to be more encompassing. It now takes into consideration potential for air release and two new routes of exposure; exposure through soil contact and exposure through the human food chain. South Carolina uses the original HRS system to score sites and includes on its State

priority list all sites that score less than 28.5 according to the HRS (in other words, those that do not qualify for the NPL).

HRS II includes a more extensive evaluation of factors such as surrounding population, groundwater, and wind patterns than the previous HRS system. Because the new system requires more staff time, many States, such as Minnesota, have modified the HRS II system to make it more practicable for State use. The Michigan Site Assessment Model (MSAM) differs from HRS II in various ways. MSAM measures potential exposure by fire and explosion -- factors not included in the current HRS II numerical score.

New York has developed a scoring system that combines three ranking systems: the HRS, a State-developed Health Ranking Model (emphasizing human exposure), and a State-developed Biothreat Ranking Model (emphasizing natural resource damages). New Jersey uses a Severity Index, modeled after the HRS, to group sites into six "action" categories. Montana uses a non-quantitative ranking system based on the following factors: 1) contamination of a drinking water supply, 2) air contamination that may pose a health threat, 3) contamination of surface waters that provide recreation and drinking water, 4) impacts on wildlife and 5) danger of fire or explosion.

FIGURE III-1
FINAL AND PROPOSED NPL SITES
January 1992



D. Program Organization

Administration of a State's program to clean up hazardous waste sites is invariably centered in the State agency with primary responsibility for environmental matters. The responsible agency's entire focus may be on environmental protection, as with the Illinois Environmental Protection Agency, or its duties may be broader, e.g., Colorado's Department of Health. Table V-4 lists the responsible agencies for the 50 States, Puerto Rico, and the District of Columbia.

Of greater interest than the identity of the responsible agency are the methods by which the States structure and staff their cleanup programs. Most States place their cleanup personnel within the agency division responsible for waste management. The organization of each State cleanup program is unique, however, and it is difficult to make generalizations concerning the program administration. Table V-4 presents by name the specific units within the State agencies that constitute the State's cleanup programs, as well as their staff levels. The examples highlighted below represent some of the more noteworthy organizational features the States are implementing.

Divisions Within Programs

Many cleanup programs are divided into several units, each with responsibility for a different program element. In Maine, for example, the Department of Environmental Protection's Site Investigation and Remediation Division consists of 27 staff, split into three sections-- administrative support and two site management units. The administrative support section handles grants, policy review, and development of the site ranking system, and is funded through the State's core program cooperative agreement (CPCA) with the U.S. EPA. The site management units supervise sites from discovery through cost recovery.

In Pennsylvania, the Department of Environmental Resources has approximately 127 staff in the State superfund program and funded by the Fund--30 in the Hazardous Waste Sites Cleanup Program in the Bureau of Waste Management, 77 in the six regional offices, 12 in fee collection, four in construction management, and four, added in FY91, in advanced science and research.

Case Management Team

Several States (e.g., Maine, Minnesota, New Jersey, and Oregon) report the use of case management teams. In New Jersey, for example, a site will be assigned to a team consisting of a case manager, a technical coordinator, and a groundwater advisor. There are separate teams for publicly-funded and privately-funded sites, and a case may shift from team to team if its funding source changes, as when an administrative consent order requiring private funding is signed. Separate negotiation units engage in communication with responsible parties, and once a site enters the remedial action phase, a separate construction team assumes oversight responsibility. For a more detailed discussion of State cases management teams see Enhancing State Superfund Capabilities: A Nine State Study, U.S. EPA (PM-220) (1990).

Multiple Personnel Functions

A number of States report that an individual staff member may have duties under both the cleanup program and another related State waste management program, such as a RCRA-type program. Vermont has taken this approach one step further and has integrated its RCRA, CERCLA, preremedial and State list activities into one unit, called the Hazardous Sites Management Section. During 1991, Vermont added Corrective Action and LUST activities to the authority of the eleven technical personnel who work in the Section.

Intragency Activity

In many States, other divisions within the responsible agency provide support to cleanup personnel. For example, air quality and water quality divisions are often consulted regarding cleanup standards. Cleanup programs must also coordinate their activities with other elements of the hazardous and solid waste programs.

Arizona's Department of Environmental Quality has 14 technical staff who manage site activities in the Office of Waste Programs and seven hydrologists who work on site cleanup issues in the Office of Water Quality. Upon request under interagency agreements, the Department of Health Services performs epidemiological studies for the State Superfund Program.

Program Changes

Since 1990, there have been basically two types of program changes--changes which affect the State Superfund process and changes which affect enforcement authorities and program structure.

In terms of process change, South Dakota designated its Division of Environmental Regulations to serve as the lead agency. Two staff members are dedicated to work full-time on the State Superfund program. It should also be noted that the number of identified sites has increased from one to 73 in the past year.

Program structures changed in several states over the past year. Iowa eliminated its State Abandoned and Uncontrolled Sites Registry and added one staff member to the Solid Waste Section for a net loss of three staff members. Maryland removed LUST and UST activities from the CERCLA program. In reorganizing its program, Vermont expanded the scope of the Hazardous Sites Management Section to include Corrective Action and LUST activities in its State superfund program.

Tennessee, Utah and California shifted the authority of their State superfund programs from one department to another. Other states reorganized Superfund divisions, bureaus, and sections, often because of changes in funding levels.

Staffing Levels

The number of personnel devoted to site cleanup varies greatly, from the approximately 800 people in New Jersey's Divisions of Publicly Funded Site Remediation and Responsible Party Site Remediation (with some RCRA-type responsibilities), to Wyoming which has one full-time person in the Water Quality Division. Program staff levels are indicated on Table V-4. In total 3,394 personnel in the States are working on cleanup programs, with an additional 262 attorneys handling cleanup cases and issues. Ten States, an increase of two since 1990, have over 100 people working on cleanup activities: California, Illinois, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Washington, and Wisconsin. Michigan and Wisconsin both increased their staff levels over 100 in the past year. These States all have very large numbers of confirmed or suspected sites; Washington with 950 sites on its State database has the fewest number of sites among these ten States.

Only three States have staff levels between 51 and 100 people: Florida, Minnesota, and Oregon. Again, each of these States has a great many sites, at least 400 confirmed or suspected. The largest number of States (28) have between 11 and 50 personnel, while 11 States have 10 or fewer people assigned to their programs. Figure III presents the staffing distribution for the 50 States.

Staff levels increased in 30 States over the levels reported in 1990, including Puerto Rico and the District of Columbia. Seven States reported a decrease in cleanup program staff over the year, while the number of personnel remained constant in 15 States.

In many States, staff members assume multiple duties both within and outside of the cleanup program, and State officials are often unable to indicate the precise percentage of time those personnel devote to cleanup activities. In Table V-4, the number of personnel with split duties is indicated by a footnote, with the explanation that some staff also perform non-superfund work. Seven States have more program positions authorized than are currently filled, due largely to lack of funding. In Massachusetts, for example, 460 (up from 286 in 1990) superfund-related positions are authorized within the Department of Environmental Protection, but only 208 are filled.

PROGRAM STAFF LEVELS	
<u>Number of Personnel</u>	<u>Number of States</u>
Over 100	10
51-100	3
11-50	28
0-10	11

Interagency Activities

Most States report that the agency with primary responsibility for site cleanup relies upon other units of State government for assistance. Often, the Attorney General's (AG's) Office handles court actions, as discussed under Legal Support, below. Over 15 States rely on their Departments of Health or equivalent agencies for assistance and guidance in risk assessment and standard-setting. Generally, either the State's Department of Natural Resources (DNR) or the Department of Environmental Protection (DEP) is the lead agency for program administration. In cases where the DNR or DEP are not one of the lead agencies, they are consulted regarding natural resources damages and related issues. Emergency response activities often involve the State Department of Transportation. Regional Water Quality Control Boards in California have asserted jurisdiction over some remediation activities, as have Regional Groundwater Management Districts in Kansas.

Legal Support

State Superfund programs obtain legal support from within their agency, from the AG's Office, or from some combination of personnel from these two sources. In many States the attorneys assigned to handle superfund cases and issues also handle other types of cases. Approximately 260 attorneys were reported by the States to be working on superfund issues. Twenty-six States report that the State AG's Office is the primary source of legal support for the cleanup program, while agency legal personnel provide the primary support for ten State programs. Fifteen States rely upon a combination of attorneys from both the AG's Office and the responsible agency. The District of Columbia indicates that their program is receiving no legal support. Table V-4 presents sources of legal support for the 50 States, Puerto Rico and the District of Columbia.

Where legal support duties are split between the AG's Office and the agency responsible for cleanup, the agency legal staff generally provides support on administrative enforcement issues, such as review of administrative consent orders or assessment of administrative penalties. When a case requires the initiation of a lawsuit, as in an action for cost recovery, it is generally referred to the AG's Office.

Staffing levels for legal personnel do not vary greatly among the States. Of the

States reporting staff levels at the AG's Office, 23 reported that they have four or fewer full-time employees working on cleanup cases. Only Colorado (14), California (9), Massachusetts (8), Michigan (7.5), and New York (7) reported higher figures. The most significant change in legal staffing occurred in New Jersey. As part of a general reorganization of legal staff, attorneys formerly assigned to the DEPE were reassigned to the AG's Office. A new Hazardous Waste Litigation Section, which has 30 full-time attorneys, was created in the AG's Office. Twenty-six States reported agency staff levels; of these States, 13 devote five or fewer full-time employees to cleanup cases, and seven States have between six and ten full-time staff. New York's Department of Environmental Conservation Division of Environmental Enforcement has 20 staff (a decrease of five since 1990), while the Chief Counsel's Office in Pennsylvania's Department of Environmental Regulation has 18 cleanup-related legal support staff (an increase of six since 1990).

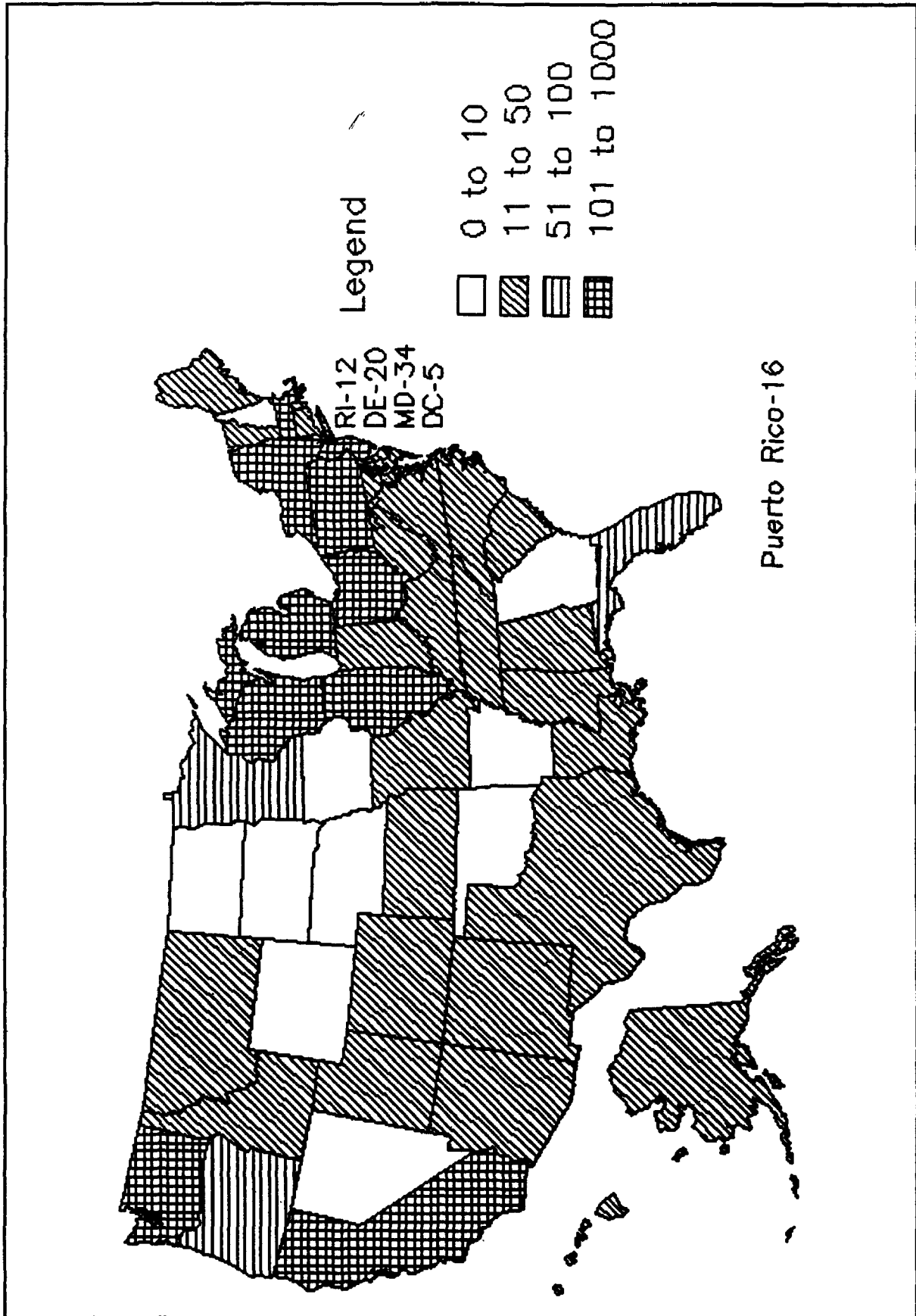
Funding Sources

There are three basic sources of funding for state program administrative and personnel costs: State cleanup funds, State general funds, and Federal grants. The funding sources used by the States are presented in Table V-5. Forty-nine States fund their program staffs through a combination of Federal grants and State monies. State funding is obtained only through general fund appropriations in fifteen of these States, while fourteen States rely only upon their separate site cleanup funds for the State share of administrative and personnel costs. Fifteen States use a combination of general fund appropriations and cleanup fund monies to pay staff and administrative costs, and one State (Nevada) obtains all of its State funding for administration through its Hazardous Waste fees. A few States have incidental funding sources, indicated under the "Other" heading on Table V-5.

Two States (Nebraska and Oklahoma) rely solely upon Federal funding to support their cleanup programs. These two Federally-supported programs are relatively small, however, each having less than ten staff. In past years Delaware's program was also entirely federally funded, but in 1991 it received funding for program administration from its new Hazardous Substance Cleanup Fund and from the State's general fund. The District of Columbia has no staff and no funding for program administration.

Table V-6 presents the various Federal CERCLA grants available to the States--Site Specific Cooperative Agreements (SSCAs), Multi-Site Cooperative Agreements (MSCAs), Support Agency Cooperative Agreements (SACAs), and Core Program Cooperative Agreements (CPCAs)--and indicates which States receive funds through these grant mechanisms. A SSCA enables the use of Federal funds for site-specific activities at a State-lead NPL site. An MSCA is a similar funding mechanism which covers site-specific activities at a number of sites. An SACA grant provides funding to States with limited cleanup staffs to enable them to provide oversight assistance on EPA-lead sites. CPCAs are available to fund non-site-specific program administration activities, such as database maintenance.

FIGURE III-2
STATE "SUPERFUND" PROGRAM STAFF



Forty-five States report having CPCAs, 30 have SACAs, 22 have SSCAs, 38 have MSCAs, and one State has a draft MSCA. Since 1990, four more States reported having CPCAs and 16 more reported having MSCAs. Only two States, North Dakota and Wyoming, report receiving no funds through these grant mechanisms. These two States, however, receive Federal funds for cleanup program administration through other programs, such as RCRA grants.

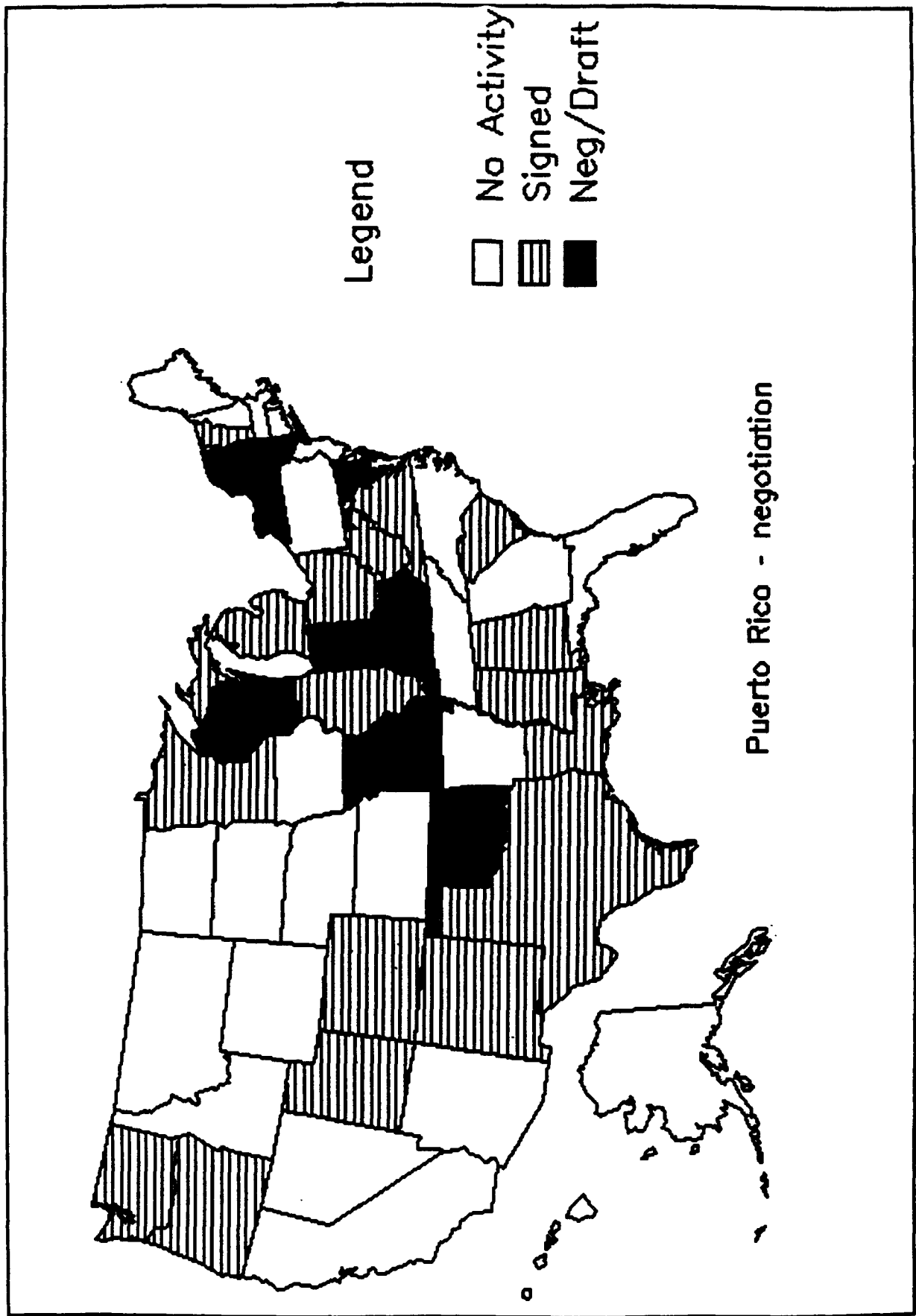
STATES RECEIVING FEDERAL CERCLA ASSISTANCE			
SSCAs	MSCAs	SACAs	CPCAs
22	38	30	45

States with Superfund Memoranda of Agreement (SMOAs) are also indicated on Table V-6 and Figure III-3. A SMOA documents the agreed-upon relationship between the EPA and a State as regards Superfund activities. It can cover issues such as review times, sharing of documents, and site-lead responsibilities. Unlike cooperative agreements with EPA, SMOAs do not provide funding for States. SMOA terms range from very broad to very specific. Eighteen States currently have signed SMOAs, three have draft SMOAs, and six States are negotiating with EPA over SMOA terms.

E. Funding

A Fund or funding mechanism is an essential element of a State's hazardous waste cleanup program. It allows a State to investigate, plan, and conduct emergency response and remedial actions at sites where there are no viable RPs, RPs are unwilling to conduct or pay for remedial actions, or immediate action is required. Typically, a Fund is characterized by both depleting and revolving expenditures. If there are no RPs, the Fund is depleted as a result of expenditures for cleanup activities and must be replenished. There may also be certain types of expenditures that the State is not authorized to recover from RPs, such as administrative (see Section D above) and certain pre-remedial costs. If RPs refuse to cooperate on cleanups or a State elects to use the Fund for emergency response or investigations, the State typically will attempt to recover these Fund expenditures from RPs.

FIGURE III-3
SMOAS SIGNED OR IN NEGOTIATION/DRAFT STAGE



A Fund also allows a State to control the pace of cleanups: if RPs fail to cooperate, the State can proceed with the cleanup and may be authorized to seek punitive damages from RPs in addition to recovering costs expended from the Fund. Of course, in order to effectively clean up sites the Fund must be large enough to pay for whatever cleanup activities may arise. If the State can clean up the site and recover its costs in a timely manner then RPs may decide that it is in their interests to agree to conduct future cleanups. Thus, depending on its size and latitude of use, a Fund can enhance a State's enforcement effort and ability to compel RPs to conduct or pay for cleanups.

State Funds are authorized and/or used in 50 States (including Puerto Rico) for one or more purposes relating to mitigation of hazardous waste risks (see Table V-7). Nebraska and the District of Columbia are the only States without an authorized cleanup Fund. Not all State Funds or accounts are included in Table V-7. Those funding instruments that are used solely as repositories for Federal monies or only provide debt servicing on bonds are excluded. However, these accounts and Funds are included in the State summaries in Chapter VI.

Eighteen States have more than one Fund or account for handling hazardous waste site cleanups (an increase of two since 1990). In most cases a State's Funds will differ from each other with regard to sources or uses. For example, one Fund may derive primarily from hazardous waste fees, while another in the same State receives legislative appropriations. In New Jersey, the Hazardous Discharge Site Cleanup Fund, derived from appropriations and bonds, may be used for the same purposes as the Spill Compensation Fund, which is funded primarily from penalties and taxes; however, the DEPE taps the latter Fund first for cleanups.

There is considerable variation among the States in terms of funding sources, authorized uses of Funds, and restrictions or preconditions on the use of funds. State Fund characteristics are described in Table V-7 and Table V-9. A synthesis of State trends in funding is presented below.

Fund Balances and Additions

Analysis of Fund balances and additions would ideally provide a sense of the States' capacities to pay for cleanups. The Fund balance measures the current availability of funds while estimated additions to the Fund provide a sense of a State's potential to sustain and increase the Fund over time. Both measures of capacity are flawed, however, particularly when comparisons are made across States. Some of the problems:

1. Up-to-date balances as of a single date cannot be obtained for all Funds from every State--dates span a year's time ranging from October 1990 to December 1991.
2. Fund balances may be low because of infrequent collection of fees or taxes (causing the Fund to "pulse"), timing of appropriations, or a program's need to exhaust its Fund at the end of the fiscal year because

carryover is not allowed. At least one of California's Funds, for example, has had a balance of \$0 at the end of the fiscal year in each of the last two years, even though its annual expenditures on cleanups are in the \$50 million range.

3. A distinction should be drawn between authorizations and appropriations. Authorization may provide a better sense of capacity, if appropriations are made on an "as needed" basis. For example, Oregon has established an Orphan Site Account. If the need to expend monies in this account can be justified, three funding mechanisms are triggered and can potentially generate up to \$3 million per year. However, the balance of the account is \$0 until needed.
4. Fund balances may also be misleading if some portion of a Fund is encumbered (e.g., CERCLA cost share) and thus there is actually a smaller amount of funds available.

With these caveats in mind, the total unobligated State "superfund" balance for all States, including Puerto Rico and the District of Columbia, is approximately \$603.7 million, a decrease of \$95.7 million from the balance of \$699.4 million in 1990 (13.7%) but still 45% higher than the \$415 million in 1989. Since obligated funds have been earmarked for a particular use and are therefore not available for use on new projects, they are not counted in the balance totals. An additional \$1,614.8 million in bonds is authorized in six States--a decrease of \$114.4 million from 1990 and a total decrease of \$366.2 million since 1989.

As in 1989 and 1990, the distribution of Funds continues to be heavily weighted towards lower levels of funding: including bond authorizations, 13 States have less than \$1 million, 14 States have from \$1 million up to \$5 million (1 less than 1990), 5 States have from \$5 million up to \$10 million (1 more than 1990), 14 States have from \$10 million up to \$50 million (1 more than 1990), and 4 States have more than \$50 million (unchanged) (see Figure III-4).

As was the case in 1990, a disproportionate amount (35%) of the total State superfund balance for all States is in New Jersey. New Jersey's share of the total is, however, significantly less than 1990 when its share was greater than 50%. This is due to a sharp decline in New Jersey's balance from \$358.5 million in 1990 to \$210.1 million in 1991. In fact, New Jersey's decrease accounted for the entire decrease in the total Fund balance and even offset an increase of \$52.7 million in the balance for all the other States combined.

The total amount of money available in Fund balances continues to be concentrated in a few States. The 15 States with the largest Funds comprise 87% of the total State "superfund" balance (compared to 90% in 1990 and 78% in 1989). If bond authorizations are included the disparity between the two groups becomes even larger. The total amount of funds available for the 18 States with Fund balances (including bonds) of \$10 million or more is \$2.140 billion or 96% of the total amount authorized within the States, and \$1.854 billion (84%) is in just four States with balances (including bonds) greater than \$50 million.

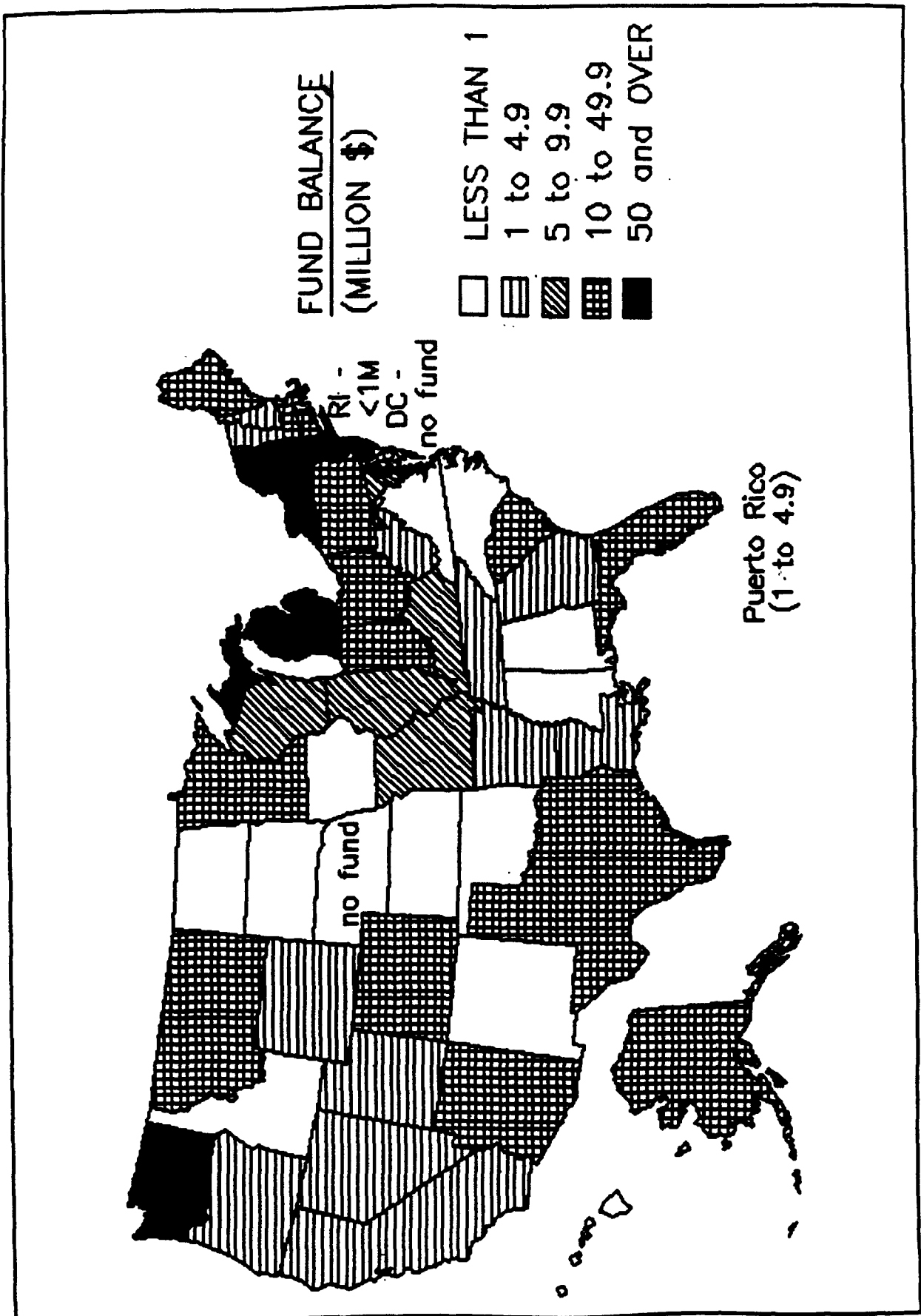
As noted above, New Jersey reported that \$153.8 million from the State's Capital Fund was returned to the State Treasury or reserved for the purpose of balancing the budget.

Thirty four States were able to provide specific information about annual infusions of money to their Funds. Most of the other States reported that annual additions to their Funds were too variable to estimate reliably. The total estimated annual additions to the Funds of the 34 States reporting figures was \$381.6 million, a 13% increase over 1990 when 39 States reported a specific amount. As with Fund balances, a few States will receive most of this new funding. Pennsylvania expects \$89 million to be added to its Hazardous Sites Cleanup Fund and California expects its Hazardous Substance Account to receive \$50 million. Another seven States (Alaska, Florida, New Jersey, New York, Ohio, Texas and Washington) expect to receive between \$10 and \$50 million in annual additions to their Funds. At the other end of the scale nine States expect to receive less than \$1 million annually (Alabama, Arkansas, Georgia, Iowa, Montana, New Hampshire, Oklahoma, South Dakota and West Virginia). Among the more significant changes in annual additions were the decrease from \$71-76 million to \$19.4 million in New Jersey and the increase in Alaska from \$1 million to up to \$50 million.

Sources of Funds

Table V-7 indicates the sources for State Funds or funding mechanisms and whether each is a major (contributing more than twenty percent of the Fund's total revenues) or minor source. There are nine general types of sources: legislative appropriations, State bonds, fees attached to hazardous waste handling or other activities, taxes, penalties or fines, transfers from other Funds or accounts, cost recoveries, interest on Fund monies or other State investments, and general public or private funds. It should be noted that information on the relative contribution of each source was not available for all Funds, and in such cases the table does not indicate any one source as being major. The Table shows a source as major only when there is positive evidence to support that description; lacking such evidence, a source is shown as minor. This qualification should be heeded in the discussion that follows.

FIGURE III-4
FUND BALANCE INCLUDING AUTHORIZED BONDS
 (As of date indicated in Table V-7)



A total of 73 Funds or funding mechanisms for handling cleanup of hazardous waste sites were identified among the States (18 States have more than one Fund or account). As noted previously, this number does not include Funds that receive only Federal monies or provide only debt servicing on bonds; Funds earmarked for leaking underground storage tanks are also excluded. The chart below shows the number of Funds or funding mechanisms and the number of States that rely on each of the nine types of sources described above, either as a major or minor source.

SOURCES OF FUNDS				
	<u>Major Source For:</u>		<u>Minor Source For:</u>	
	No. of Funds	No. of States	No. of Funds	No. of States
Fees	25	22	6	6
Appropriations	19	17	15	15
Penalties/fines	15	14	34	30
Bonds	15	13	--	--
Taxes	13	12	3	3
Cost recovery	11	10	44	39
Transfers	2	2	5	5
Interest	2	2	26	24
General funding	--	--	12	10

Fees on the generation, transport, treatment, or disposal of hazardous waste, hazardous substances, or solid waste are a critical source of revenue for many State funds. They represent a major portion of 25 Funds in 22 States (an increase of one State since 1990 and three since 1989), and a minor portion of six Funds in another six States. In addition to providing revenue for State Funds, fees on hazardous waste are often intended to reduce the hazardous waste stream and encourage recycling efforts. For example, fees on the transport and disposal of hazardous waste make up 90% of Illinois' Hazardous Waste Fund; these fees have been raised each year between FY 1989 and 1991 to increase the Fund and discourage hazardous waste generation. In Kentucky, fees are based on the level of treatment required for hazardous wastes; a sliding scale is also applied on solid waste disposal in Ohio, where such fees are expected to provide 80% of total funds. In Tennessee, a public board sets a hazardous waste fee structure for generators and transporters within a statutory minimum and maximum in order to encourage recycling and discourage land disposal. South Carolina charges a land disposal fee of \$5.00 per ton for hazardous waste originating within the State, and a minimum of \$7.50 per ton for wastes generated outside

the State, as well as a hazardous waste storage fee; these fees provide 80-90% of fund revenues.

Considering that such fees represent a substantial portion of many State funds, it is worthwhile noting the types of limits that are often attached to them. Fund administrators in South Carolina must report to the legislature on the need for continuing fee collection once the fund balance reaches \$7.5 million. Iowa and Kentucky both suspend fee collection if the fund balance exceeds \$6 million and resume collection if the balance falls below \$3 million; West Virginia suspends fees whenever the year-end unobligated balance exceeds \$1.5 million and reinstates fees when the balance reaches \$1 million; similarly, Illinois uses a range of \$10 million and \$3 million on unobligated funds in suspending and resuming fee collection. In Tennessee, the fee structure is adjusted annually to maintain a balance of \$3-5 million in unobligated funds, but the level of estimated fees must not exceed \$1 million per fiscal year; moreover, the fees are abrogated if the legislature fails to appropriate matching funds. Beyond the matters of equitable or adequate fee levels, fee revenues may fluctuate due to changes in hazardous waste handling. Increasingly restrictive land disposal practices have steadily diminished the land disposal fee receipts collected in Missouri; treatment and disposal fee receipts have declined in Iowa as well.

Appropriations are also a primary source of State cleanup funds or funding mechanisms. Nineteen Funds (down three from 1990) in 17 States (down one from 1990) derive a major portion of their revenue from appropriations, and an additional 15 States provide some level of appropriations for their cleanup Funds. The manner in which funding is appropriated by State legislatures indicates the flexibility with which a State can handle hazardous waste cleanups. Many States allocate funding to their superfund programs on a regular, typically annual, basis. In some States, such as Kansas, however, appropriations for state-Fund cleanups must be requested on a site-specific basis. Alaska is anomalous in that the appropriations to the Oil and Hazardous Substance Release Fund come from a tax on each barrel of oil transported in the Trans-Alaskan pipeline.

Bonds are a major source of funding for 15 Funds in 13 States. Four of these States (New York, New Jersey, Massachusetts, and Michigan) have been authorized to issue \$2.01 billion in bonds, of which \$313 million have been issued to date. New York has issued approximately \$227 million out of a total bond authorization of \$1.2 billion. Similarly, Michigan has issued about \$38 million of its \$425 million authorization, and Massachusetts has issued \$48 million of the initial authorization of \$85 million. New Jersey has not issued any bonds in 1991, reporting that it still has \$200 million authorized.

Taxes are a major revenue source for 13 cleanup funds in 12 States (up two since 1990 and three since 1989). Several States charge a tax on hazardous wastes or substances that is similar in nature to the fees described above, with some of the same types of restrictions. For instance, Florida's main source of revenue for its Water Quality Assurance Trust Fund is a tax on pollutants of \$0.02/bbl; the tax is suspended if the Fund's balance exceeds \$12 million and reinstated if it falls below \$5 million. Missouri's fund is derived from taxes on hazardous waste generators based on tonnage and method of waste handling; the tax is not to exceed \$50,000 per company per year and is capped at \$1.5 million per year. In Washington a tax on the wholesale value of hazardous substances funds both the

State and Local Toxics Control Accounts. The main source of revenue for New Jersey's Spill Compensation Fund is a transfer tax on hazardous substances. After November 1992, Pennsylvania's taxes on capital stock and franchises will be either increased or decreased by \$500,000 depending on whether the Fund balance is below or above the previous year's expenditures.

While a number of Funds have restrictions placed on fee or tax collection, the primary cleanup Funds in 32 States do not have a cap or other restriction placed on the Fund balance.

Penalties and fines provide a major source of revenue for 15 Funds in 14 States (up from 12 Funds in 12 States in 1990), and cost recoveries provide a major source for 11 Funds in ten States (an increase of one Fund since 1990). Each category appears as a minor source for many Funds and States (see chart above). These numbers do not accurately reflect the actual use of penalties/fines or cost recovery since many States do not use their statutory authority to pursue these sources, often because of limited resources.

Fund Expenditures

The amount of money spent by States on cleanups in the past year provides another indication, in addition to Fund balances and annual additions to Funds, of States' capabilities to clean up sites contaminated by hazardous substances. The annual additions to Funds should theoretically be an accurate predictor of States' capabilities to pay for future cleanups, while Fund balances should indicate capabilities for the coming year. Reality does not, of course, accord with theory and these two measures do not necessarily accurately indicate States' cleanup capabilities.

For the 1991 Update a third measure, expenditures from Funds, was added to help give a more complete picture of States' financial capabilities to conduct cleanups. Fund expenditures gives some idea of a State's past cleanup capabilities. This can be a good indicator of future capabilities if other factors show that the State is maintaining a stable cleanup program.

This year each State was asked how much money had been spent from the State's Fund(s) during the most recent past fiscal year. Some States did not have figures for the amount actually spent but did have records for amounts encumbered, i.e. where contractors have been authorized to do specific work but have not been paid. Other States could not readily separate amounts spent from those encumbered. Two States did not provide any information about expenditures. Table V-8 presents the amounts States reported that they spent or encumbered or a combined figure or both figures separately.

This variation in the basis of the data provided by the States means that comparisons between States cannot be made across the board. Completely valid comparisons can be made only after ensuring that the amounts being compared represent the same concept; that amounts spent are compared with amounts spent and totals that include expenditures plus encumbrances are compared with similar combined totals. The aggregate figure for all

States is also somewhat misleading since it includes all the amounts reported by States, whether they were spent or encumbered.

With these caveats in mind, fifty States reported spending or encumbering \$427.7 million from State Funds on cleanups in the previous fiscal year. California spent the most at \$57 million, followed by New Jersey (\$48.9M) and Alaska (\$47M). These three States accounted for 36% of the total spent or encumbered by all States and eleven States accounted for \$356.8 million or 83% of the total. The majority of the States (33) spent or encumbered less than \$5 million on cleanups.

California is an example of how one measure of capacity can be misleading. Since 1989 its Fund balance at the end of the fiscal year has never exceeded \$10 million, yet it spent more on cleanups in 1991 than any other State. In this case the Fund expenditure total is a better indicator of the program's capabilities than is the Fund balance, which is always near zero at the end of the fiscal year because the agency spends all the available money.

Comparing Fund balances, annual additions to Funds and Fund expenditures can be an indicator of the stability of a State program. Annual additions that significantly exceed past annual expenditures may indicate that a State is expanding its program or preparing to pay for the relatively more expensive remedial actions. Pennsylvania, with a current balance of \$21.8 million and annual additions of \$89 million compared to expenditures last year of \$38 million, is an example of a relatively new program that is expanding its resources and activities. Where annual expenditures exceed additions by a significant amount the Fund balance becomes critical to the State's ability to maintain its program at the same level of activity. Decreases in the funding available for New Jersey's cleanup program may, for example, eventually force it to reduce its cleanup activities, although other factors (see Chapter IV State Property Transfer Programs) may mitigate the impact of decreased funding. For the near future, however, New Jersey's Fund balance of \$210.1 million plus \$200 million in authorized bonds can absorb expenditures that significantly exceed its annual additions. In fact, despite the fact that one entire Fund was made unavailable to the cleanup program, the aggregate balance of the other two Funds grew by \$6 million in fiscal year 1991.

Focusing only on Fund expenditures can also be misleading. Enforcement and other tools can be effective in obtaining cleanups, rendering Fund-financed cleanups unnecessary. A number of States have reported, however, that the willingness and demonstrated ability to cleanup a site by spending State funds provides significant incentive to RPs to agree to conduct or fund cleanups. Thus, Fund expenditures may be most useful as an indicator of State cleanup capabilities after several years of data are collected, allowing comparisons within a State over the years.

Uses of Funds

Table V-9 indicates the uses of State cleanup Funds. There are nine basic types of activities for which Fund monies may be used: remedial actions, CERCLA match, emergency response, grants to municipalities and local governments, site investigation, operations and maintenance, removals, studies and design, and victim compensation. The following chart shows the number of Funds whose monies are or may be applied to each activity, as well as the number of States having at least one Fund whose monies are or may be applied to each activity.

	<u>No. of States</u>	<u>No. of Funds</u>
Emergency response	49	64
Removals	47	63
Studies and design	45	58
Remedial actions	47	61
CERCLA match	44	52
Operation and maintenance	42	52
Victim compensation	13	14
Site investigation	39	50
Grants to municipalities and local governments	11	12

Emergency response actions remain the most common activity for which Funds monies are authorized--64 Funds in 49 States may be used for this purpose. Removals, as part of both emergency and remedial actions, are also widely authorized. At present, 63 Funds in 47 States may be used for this purpose. The gap in the number of States that authorize remedial actions (47) and the number that authorize operation and maintenance (42) has narrowed a little, from seven in 1989, perhaps because a few more States have reached this final stage in the remedial process.

Victim compensation is authorized in 14 States, but in North Carolina water replacement is authorized under its Solid Waste Management Laws not under its two cleanup Funds. Thus, victim compensation is an authorized use of the Funds of 13 States. The nature of compensation is limited to providing alternative drinking water supplies, except in five States: California, Minnesota, New Jersey, Rhode Island, and Vermont (see Table V-2). In New Jersey, anyone can file a claim for personal or property damages resulting from a hazardous discharge, within a one-year statute of limitation from the date of discovery of damage. The State must attempt to arrange a settlement between the claimant and the responsible party, but if the source of the discharge cannot be determined,

the State must settle the claim against the Spill Compensation Fund. Seventy eight million dollars in claims have been filed. Minnesota may partially compensate innocent landowners for cleanup costs. California has a Hazardous Substance Victim's Compensation Fund intended to provide compensation for medical and economic damages caused by the release of hazardous substances when a responsible party cannot be found. With money yet to be appropriated to this Fund, the three claims made to date have been paid out of the Hazardous Substance Account.

Several Funds are not designated strictly or even primarily for use on hazardous waste sites. For example, Kansas' Hazardous Waste Perpetual Care Trust Fund is intended primarily for RCRA activities, but up to 20% of the Fund can be used for emergency response actions at hazardous waste disposal facilities closed prior to the State's 1981 hazardous waste act. Virginia's Fund is intended for solid as well as hazardous waste incidents. Other Funds are designated strictly for hazardous waste sites for very limited uses. Ninety-five percent (95%) of the Colorado Hazardous Substances Response Fund, for example, must be used for federal CERCLA match.

Despite its name, Pennsylvania's Hazardous Sites Cleanup Fund is used for a broad range of activities beyond that of site cleanup. Fund monies may be used to encourage recycling activities through a recycling grant program for which \$2 million has been set aside. Demonstration grants for alternatives to hazardous waste land disposal can also receive funding. Private party cleanups are facilitated through a \$100,000 Loan Fund, and the State also can supply loans or grants as inducements and compensation to municipalities where hazardous waste facilities will be located.

Washington's State Toxics Control Account funds a number of activities in addition to hazardous waste site cleanup, including hazardous and solid waste planning, management, regulation, enforcement, technical assistance, and public education.

In Oregon, recent legislation created a financial assistance program that enables the program to provide loans to RPs to undertake cleanup activities. The interest rate and other terms of the loan are negotiated by the RPs and the Department of Environmental Quality.

Although many Funds are statutorily authorized for use in a range of activities, low funding levels may restrict actual usage of monies. Kentucky's Fund was intended for use on virtually every aspect of hazardous site cleanup and management but, due to low funding levels, it has been used mainly for CERCLA matching funds. The Virginia Fund may be used for the full range of remedial activities but, containing under one hundred thousand dollars, its actual use is quite limited. Alabama's Hazardous Substance Cleanup Fund may be used for remedial actions and operations and maintenance, but with a balance of \$147,000, is primarily used for small-scale emergency removals of drums.

Utah allows a range of site activities, including site investigation and studies and design, but the State agency may not use the Fund for remediation. Similarly, Colorado's Fund may be used for site investigation, but not for removals or remediation.

Special Conditions on Fund Use

Restrictions and preconditions on Fund use are primarily of two types: those that statutorily require the State to exhaust every funding alternative, whether Federal or private party, before drawing upon State cleanup monies, and those that require the State cleanup agency to obtain specific authorization before undertaking any response action. In Alabama, sites receiving funds must not be on the NPL at the time activity starts; and in several other States, State funds may be used only where Federal funds are not available or sufficient. Eighteen States require that an attempt be made to obtain responsible party participation in site cleanup before State funds are used; many States waive this restriction in the presence of an imminent threat to public health or the environment. Virtually all States pursue RP participation first as a matter of practice and policy. Although it appears that only a relatively small number of States are required to seek alternative fund sources before using State monies, it is probably safe to assume that many more do so as a matter of policy.

Six States require that the State agency responsible for cleanup obtain prior approval from some administrative authority before undertaking one or more types of response or remedial action at hazardous waste sites. All expenditures must be approved by the governor in New Hampshire, the Pollution Control Board in Minnesota, the Environmental Quality Council in Wyoming, the Board of Public Works in Maryland, and the agency's Commissioner in Indiana. Arkansas requires a commission to approve expenditures over \$30,000.

In six States the agency must obtain prior legislative approval for some types of expenditures. Washington requires that any expenditure from its State or Local Toxics Control Account first be appropriated by statute. Oklahoma requires a site-specific appropriation whenever site costs are expected to exceed \$1 million; Illinois must get a similar appropriation if site expenditures will exceed \$1 million for a single incident. According to Illinois program officials, this cap has not affected the program's effectiveness. In Vermont, non-emergency expenditures over \$50,000 must be approved by the legislature or its joint fiscal committee. Similarly, Delaware's joint fiscal committee must approve any expenditures that would exceed 15% of the Fund balance. Finally, Nevada's Interim Finance Committee must approve any studies not already budgeted.

California is the only State that restricts Fund use based on the origin of contaminants--monies from the State's primary cleanup vehicle, the Hazardous Substance Account, cannot be used for removals or remedial action if a significant portion of hazardous substances originated outside the State.

F. Enforcement

Enforcement authorities and capacities under State laws vary significantly. Many of the States with cleanup fund laws have incorporated enforcement provisions into those laws. These States may also use other enforcement authorities in dealing with sites, such as water quality and hazardous and solid waste laws.

Some States have no enforcement provisions directly linked to State remediation programs for hazardous sites, either because they have no such program independent of CERCLA (e.g., Idaho, Nebraska), or because the State's cleanup fund statute was enacted without supporting enforcement provisions (e.g., West Virginia). Michigan was in this position until 1990, when it enacted enforcement provisions for its State superfund law. States without specific superfund enforcement provisions must rely on RCRA-type authorities, or on enforcement authorities found in water quality or solid waste statutes and regulations.

Who is Liable?

A key issue for State programs is whether State enforcement provisions can reach all potentially responsible parties to the same extent that CERCLA can. Owners and operators of disposal sites can be enforced against under virtually any of the existing State programs. A more difficult issue is whether enforceable cleanup orders can be issued to generators and transporters. The ten States that rely on non-superfund enforcement authorities cannot always reach such potential RPs. For the most part, State cleanup orders issued under RCRA-type laws require proof of a RCRA violation or, at the least, RCRA jurisdiction over the facility or entity at the time the disposal occurred. Under these authorities the mere release of hazardous substances at a site does not support enforcement against former lawful disposers at that site. Some State solid waste laws or "imminent danger" provisions have a potentially longer reach. State water quality laws may also provide a basis for enforcement action against generators and transporters. Most State water quality laws have a strict liability provision prohibiting discharges of any pollutant into "the waters of the State" without a permit. Most States define "waters of the State" to include groundwater. (See Novick, Environmental Law Institute, The Law of Environmental Protection, section 6.03[1][a] (Clark Boardman, 1987, 1988, 1989, 1990)). Because generators or transporters placed the material when it pollutes or threatens to pollute surface or groundwater they may be held liable, even though the original placement of the material was lawful. Thus, a State's most useful enforcement authority, absent a superfund-type enforcement provision, may well be found in its water quality law.

Liability Standards

Apart from the issue of who may be held liable, there is also the question of the standard of liability. There are two aspects to the question of liability. First, is the state standard one of strict liability--that is, based solely on the occurrence of a release or potential release--or is liability based on proof of fault? Second, is liability "joint and several" with each RP responsible for the entire cleanup regardless of its contribution to the problem, or is it proportional, with each liable only to the extent of its contribution? Under CERCLA the Federal standard is strict, joint and several liability. This is not the case with many of the State programs.

With strict liability, a responsible party who has contributed to hazardous conditions at a site is liable for the actual or potential damages posed by the hazards, regardless of fault. Liability standards other than strict require a greater burden of proof to be satisfied by the State, such as proof of negligence or intent. Standards dependent upon fault effectively limit the universe of parties to whom liability may attach. This, in turn, is likely to reduce the effectiveness of the enforcement program in comparison with a strict liability program.

Thirty-six States have some form of strict liability standard (see Table V-10). In other States, however, the standard of liability is not clear. Proof of fault or causation may be required in order to sustain enforcement orders or to recover costs. At common law, strict liability is not favored, so courts may interpret legislative silence or statutory ambiguity as requiring the agency to show causation and fault. For example, statutes that attach liability to "any person responsible for a release or threatened release" may require proof of causation and fault not required by a strict liability standard.

How liability should be divided among responsible parties who have contributed to hazardous conditions at a site is another important issue. Under a "joint and several" liability standard, each RP is liable for all cleanup costs at a site regardless of its actual contribution to hazardous conditions there. Eighteen States have enacted (or asserted) a strict, joint and several liability standard. Michigan joined this group in 1990 with new enforcement legislation. Eight additional States have a strict, joint and several liability standard but have added a further provision that allows an RP to prove its "proportional" contribution to the site and thus limit its liability.

Several States (Hawaii, Missouri, Nevada, and South Dakota) have adopted a strict liability standard, but do not prescribe whether liability is joint and several or proportional.

Six States (Alabama, Arkansas, California, Maryland, Tennessee, and Utah) provide expressly for a "proportional" liability scheme. (Arkansas does use joint and several liability for administrative enforcement purposes, but must use proportional liability in judicial actions and in cost recoveries). Under proportional liability schemes, each RP is responsible for no more than its proportional share. In general, the proportional liability statutes do not prescribe the basis for the apportionment, only that it be made. An exception is Arkansas, which bases proportionality on the volume of waste contributed to the site. Proportional liability increases the probability that there may be "orphan" shares of cleanup costs with no corresponding RPs which must ultimately be borne by the State. Also, to the extent that proportional liability is applied to enforcement-based actions (orders to conduct studies or remedial action, as opposed to cost recovery), it may make such enforcement more difficult.

Several other standards of liability exist, including those that leave the matter to common law or other defenses, as in New York.

Order Authorities

Forty States and the District of Columbia have the power to issue administrative orders compelling responsible parties to conduct cleanup activities under "superfund"-type statutes. (Table V-2). The majority of these States also have administrative order authority to require responsible parties to provide information and to conduct studies.

Ten States and Puerto Rico rely on RCRA-type, solid waste, or water quality enforcement authorities to order cleanups. These authorities, as noted above, do not apply in all circumstances or to all potentially responsible parties.

The fact that a cleanup order may be issued by a State, however, is only partially informative. State cleanup orders are not always identical to CERCLA section 106 orders, which provide for no pre-enforcement review. Nor are State orders always subject to the same deferential standard of review in the event of enforcement of the order, or in the case of cost recovery and punitive damage suits. For example, in many of the States a responsible party receiving an order has the right to seek review of that order before a board, commission, or court. In Illinois, the State agency must file a complaint seeking an order from the Pollution Control Board in an adversary action at which the responsible party may litigate any issues. In other States, such as Virginia and Kentucky, an order may be issued only after a hearing or opportunity for hearing. In Arizona, the recipient of an order may seek administrative review. In Pennsylvania, one type of cleanup order is reviewable before the State's environmental hearing board, while another type of cleanup order is not subject to pre-enforcement review; the State has the option to issue either type of order. In Texas, the recipient of a cleanup order may appeal it to court; however, a deferential standard of review is applied. Other States, like Tennessee and Oregon, do not allow pre-enforcement review. In a significant number of States the availability of pre-enforcement review has never been determined because all sites have been handled by consent order.

The standard of review is also important, whether it be pre-enforcement or in the context of agency enforcement of an order or a cost recovery action. Several of the States expressly apply a deferential standard of review. For example, in Pennsylvania (under one of the two Pennsylvania order types) the agency action must be upheld unless it is "arbitrary and capricious." In Texas, the State must prove on appeal that there is an imminent and substantial endangerment and that the recipient of the order is liable. However, if the "appropriateness" of the remedy is contested on appeal, the remedy must be upheld unless the court finds it to be "arbitrary and capricious." In most States, however, no standard of review is spelled out by statute.

Injunction Authorities

All of the States with order authorities also have authority to bring civil injunction actions, either to obtain a direct injunction, to enforce an administrative order, or both.

Enforcement Sanctions

The most important "enforcement" tool under any of the State cleanup programs is the potential ability to expend the State Fund and recover those costs from RPs. This is reported by many States as the driving force behind most "voluntary" cleanups and consent agreements. The real force of this incentive, however, depends upon the credibility of the State's threat to spend Fund monies. The enforcement leverage of the Fund is minimal to non-existent in those States where the Fund may only be expended for the State share of NPL site expenditures or for emergency response, or where it may be expended on State sites only after a lengthy and laborious listing process, or only pursuant to site-specific authorization by the legislature. By contrast, in those States where expenditures can be authorized and made relatively quickly--as in New Jersey and Minnesota, for example--the potential State Fund/cost-recovery option produces substantial enforcement success.

The effect of the Fund/cost-recovery threat is enhanced in those States that have a punitive damages provision. (Table V-11). These provisions have become increasingly common, and now exist in 24 States, up from 23 States in 1990 and 22 States in 1989. Nineteen of these States provide for the award of treble damages, as under CERCLA. Other States provide for damages of one-and-a-half times or twice the response costs. Maine simply provides for punitive damages without specifying an amount.

The standards for assessment of punitive damages vary somewhat, but generally require more than simple refusal to do the work directed in an order. For example, the Pennsylvania statute requires "willful" failure to comply. The New Jersey courts have created a "good faith" defense to such damages.

Civil penalties exist in virtually all of the State enforcement laws as well. Forty-five States and Puerto Rico report civil penalty provisions. These appear to be less important in influencing behavior, and are not often assessed. Given the cleanup function of State superfund programs, the penalties typically apply to failure to comply with an order. Penalties range from \$1,000 per day (Kentucky) to \$50,000 per day (Louisiana, Vermont and New Jersey).

Criminal penalties are not really a factor in most State cleanup programs. Virtually all of the programs contain provisions making the submission of false information or failure to pay fees (in States where Funds are derived from fees) criminal offenses. In general, the failure to comply with a State cleanup order is not a criminal offense. A wide range of criminal offenses does exist for unlawful disposal and other types of conduct. Some of these crimes may have relevance to State superfund sites. (See McElfish, "State Hazardous Waste Crimes," 17 *Envtl. Law Rep.* 10465 (1987) for a list of these crimes and sanctions.)

Victim Compensation Provisions

Victim compensation provisions are relatively rare in State superfund statutes. While California, New Jersey, and Minnesota have provisions for compensating victims of hazardous substance contamination, most States do not (see Table V-2). A number of States do, however, have express provisions for furnishing alternative water supplies or providing reimbursement for the cost of water supplies in the event of contamination from a site.

Natural Resource Damages

A few States have made explicit provisions in their laws for the recovery of natural resource damages. These provisions apply in addition to the CERCLA natural resource damage provisions. Few States have litigated such actions under State provisions. Colorado has the most experience in litigating natural resource damage cases under CERCLA, and has achieved substantial settlements at three sites. One difficult issue in recovery of natural resource damages is the proper method of calculation. The Pennsylvania statute contains a provision that makes the State's calculation of such damages presumptively valid as a matter of law, subject to the responsible parties having the opportunity to offer a rebuttal. Table V-12 shows the current status of natural resource damage enforcement work in the States. A majority of States have had no activity in this area, but a substantial number have undertaken assessments (NRDAs), recovered damages, or commenced development of natural resource damage enforcement policies.

Other Enforcement Provisions

A few States have enacted favorable presumptions and rules of decision to aid in hazardous site cleanups and enforcement. One of the better examples of such measures is Pennsylvania's statute, which contains a provision that if contamination is found within 2500 feet of a site, it is presumed as a matter of law that the responsible parties for that site are liable for the contamination. This limits the State's burden of proof where contamination pathways may be obscure or complex, and shifts the burden to the responsible parties to disprove the link.

A number of States foster or mandate cleanups through property transfer programs. These programs are discussed in detail in Chapter IV.

Evaluating Enforceability of Programs

It is difficult to evaluate the enforcement component of any State program. Both strong and weak programs can produce a significant number of "voluntary" settlements and consent orders. The only difference will be in the quality of the remedial action agreed to--a difficult thing to assess except on a detailed site-by-site basis. The best surrogate for that sort of detailed review is to ascertain whether each State has available to it sufficient tools for enforcement that allow it to exert significant and credible leverage.

State programs are weaker if they have numerous procedural "hoops" to pass through before effective enforcement--for example, mandatory negotiating periods during which there is a moratorium on enforcement actions or State expenditures. Likewise, rules of decision that encourage RP litigation or delay are counterproductive, such as provisions that allow the RP to conduct a trial on the selection of remedy, or that afford no deference to the action selected by the State agency based on the administrative record. The stronger programs appear to make significant use of the credible threat of Fund-lead actions if negotiating deadlines are not met by RPs. If this is backed up by a punitive damages provision, the program may achieve greater success. State programs with sufficient enforcement options, the ability to reach generators and transporters as well as site owners and operators, a strict liability standard, and the ability to resort credibly to the State fund appear to have the greatest potential for enforcement success.

Nothing definitive can be said in this study about the efficacy of "proportional" liability schemes. Strict, joint and several liability makes the State's burden of proof much simpler, however, and also provides a greater likelihood of a full recovery of costs. Under a proportional liability scheme, the State may be unable to recover a significant portion of cleanup costs, as might occur if the largest proportional contributors were the least solvent financially. State programs without strict liability are even more problematic. The task of proving fault for a release (particularly in the case of a generator or transporter) may be quite difficult.

G. Cleanup Policies and Criteria

Cleanup policies and criteria are key elements of State superfund programs. Most importantly to the public, they are used to establish the cleanup goals at sites and determine the level of environmental and health risk reductions to be achieved by remedial action. However, as the stringency of cleanup goals increases, the costs of mitigating the site risks also increase. State superfund programs face challenges in effecting private cleanups that meet increasingly stringent standards; when enforcement efforts fail or there are no RPs, a greater proportion of the State's fund will be needed to meet stricter remediation goals.

Determining the appropriate and feasible level of cleanup for a hazardous waste site involves technical, administrative, and economic considerations that are necessarily evaluated on a site-by-site basis. States commonly look to Federal guidelines and standards as they decide upon cleanup levels. Beyond such guidelines, several States have established procedures to determine the particular cleanup standards that are necessary for individual sites, and many have requirements that exceed Federal standards. Overall the States vary widely in the extensiveness and formality of procedures used to set cleanup standards.

Table V-13 indicates a number of criteria that are used by States to determine cleanup standards at hazardous waste sites. Only one State (West Virginia) did not report specific policy guidelines for determining cleanup levels. Two states (Louisiana and Idaho) reported that they used only EPA guidelines. Rhode Island uses only risk assessment; and Oregon reported only one standard, cleanup to background. The remaining States use at least two of the listed criteria.

Seven States report having promulgated specific hazardous waste remedial standards (Alaska, District of Columbia, Michigan, Montana, Utah, Washington, and Wisconsin). Two States (Oregon, Delaware) have such standards in draft form and three States are developing them (Connecticut, Maryland, and New York). In addition, three States (Vermont, New Jersey, Montana) are in the process of developing cleanup standards for soil, and three States expect soil standards to be final in the near future (Oregon, Minnesota, and Wisconsin).

Several States cited general statutory instructions that parallel CERCLA's original guidance on cleanup standards, calling for cost-effective measures that protect public health and welfare and the environment. Massachusetts' standards call for permanent solutions whenever feasible, and include consideration of both technical and economic practicability. Texas looks for the lowest cost alternative that is technically feasible and reliable and effectively mitigates and minimizes damage to and provides adequate protection of public health and safety or the environment.

Federal Standards

Thirty-seven States use EPA guidelines either as their sole source of cleanup standards or in conjunction with other standards. In 1990, thirty States reported that they used EPA guidelines. Standards found in RCRA and CERCLA were specifically cited as relevant, and several States follow NCP procedures. In determining minimum standards for surface and groundwater mediation, thirty-six States reference Maximum Containment Levels (MCLs) set by the Safe Drinking Water Act for public water supplies. This is an increase of eight States since 1990. No States use MCLs as their sole criterion.

Risk Standards and Assessments

Thirty-eight States, six more than 1990, either reference risk levels or conduct a risk assessment in determining cleanup standards. Only one State (Rhode Island) uses a risk assessment as its sole criterion. Where States mention numerical risk standards, they all fall within the range of 10^{-4} to 10^{-7} for carcinogens.

Some States invoke risk standards only in the absence of applicable standards. In Indiana, for example, cancer risk assessment is used where MCLs and applicable or relevant and appropriate requirements (ARARs) are not established, or where multiple carcinogens are present. Other States have risk standards that apply generally. In addition to a risk standard for carcinogens, North Carolina prohibits any chemical intake exceeding the

amount known to cause non-carcinogenic health effects. Kentucky requires that there be no long term detrimental effect for non-carcinogens. North Dakota uses narrative rather than numerical risk levels.

Other States use a combination of risk standards and other standards. Minnesota applies a non-degradation policy to its cleaner sites. Michigan uses a three-tiered clean up standard: Type A is background; Type B is risk based; Type C is low priority and less stringent than Type B.

Site-by-site risk assessments are performed by at least twelve States to determine cleanup levels. Like risk standards, risk assessments may be used either in the absence of other standards, or as supplements to other standards. For example, Massachusetts undertakes risk assessments only when an appropriate standard does not exist for a particular situation. In contrast, Florida and Kentucky weigh the results of site-specific risk assessments along with other applicable standards to determine cleanup levels at each site.

Water Quality Criteria

Forty-two States, an increase of fourteen States since 1990, reference existing surface water or groundwater quality criteria in determining cleanup standards. Groundwater is generally a growing concern and is of particular concern in a number of States. For example, in New Mexico all cleanup actions must satisfy groundwater protection standards of the Water Quality Control Commission. Iowa's regulations provide cleanup goals for groundwater. Wyoming's cleanups are site specific with criteria based on protection of groundwater.

Ambient Quality

Twenty four States, an increase of four States since 1990, reference ambient, or background, water quality in determining cleanup standards. While some States have background quality as their cleanup goal, they recognize that it may not be feasible for all cleanups to meet this standard; in practice they may use ambient quality as a starting point for assessing cleanup levels and negotiating with responsible parties. In Oregon, for example, if cleanup to background is infeasible, the State will select a remedy that attains the lowest concentration level that satisfies specified feasibility criteria, which include cost-effectiveness. In other States, ambient quality is simply one factor that must be considered before a cleanup standard is determined. Finally, some States require cleanup to background for some, but not all, sites based upon preselected criteria such as groundwater classification.

STATE CLEANUP CRITERIA

Hazardous Waste Remedial Standards	7
MCLs	36
Water Quality Criteria	42
EPA Guidelines	37
Background	24
Risk Assessment	38

H. Public Participation

The degree of public participation solicited in decisions about hazardous waste sites varies widely among States. Public participation activity may be required under State statute or regulation, pursued as agency policy, or taken up in response to expressed public concern. Table V-14 describes required, and routine or ad hoc public participation procedures in each State.

Forty-three States report some type of public participation procedure -- an increase of five States over 1990. Twenty-two States have specific public participation requirements mandated by statute or regulation (some also have additional procedures established as agency policy). Another twenty-one States seek community involvement strictly as a matter of policy or in an ad hoc manner. Four States (Hawaii, Kansas, Ohio and Virginia) are in the process of formulating a policy for public participation, with Kansas also following NCP guidelines on an ad hoc basis during this process. The remaining six States did not describe the public participation component of their programs.

Six States (Alaska, Colorado, Utah, Kansas, Indiana, Tennessee) reported that they follow NCP public participation guidelines as a matter of policy.

Public Notice Requirements

Eighteen States require public notice at one or more points in the site handling process. The types of actions for which notice is required and the number of States requiring notice are as follows.

PUBLIC NOTICE REQUIREMENTS

<u>Type of action</u>	<u>Number of States</u>
Site investigation or listing	6
Proposed remedial plan	14
Administrative/enforcement orders	2
Program to identify releases	1
Proposed settlement agreement	1
Notice of violation	1
Closure plans	1

Public Comments

Eighteen States solicit public comments on site listing or remedial plans; sixteen of these States solicit comments pursuant to statutory requirements; and two of these States do so as a matter of policy. Seven States have a designated comment period ranging from 30 to 60 days; the others did not report a specific time period.

Pennsylvania requires the opportunity for public comment and at least one public hearing on the administrative record and requires the agency to respond to all significant comments. In Montana the public participates in risk assessment design at select sites.

Public meetings/Hearings

Twenty-five States report that they have provisions for public meetings or hearings. They are required by statute or regulation in eleven States. In addition, two States (Oregon and Wisconsin) require that a public meeting be held upon petition or request. In two States (Michigan and Missouri) only an annual meeting is required, either to update a site list or to review the State program.

While not required by statute or regulation, in another twelve States meetings may be held at the discretion of program officials. In Puerto Rico, public meetings are conducted for emergency sites where EPA is the lead agency.

Indiana holds two or three public meeting per site, followed by a mailing to affected parties. It often polls the public regarding possible remedies. Minnesota assigns a public relations officer to each site and conducts a public meeting at the completion of the RI/FS to explain the proposed plan. Louisiana implements a community relations program at complex sites and holds regular public meetings. Before concluding any settlement agreement Louisiana holds public meetings and makes copies of the draft agreements available to the public.

Community Relations

A community relations program similar to that outlined in the Federal NCP may be adopted by States to lend a formal structure to public participation activities. Under such a program, one or more spokespersons might be designated to inform, solicit views of, and respond to inquiries from local residents, local government officials or agencies regarding conditions and activities at hazardous waste sites.

Community relations programs are a growing feature of State public participation program activities. Nine States (up from four in 1990) reported engaging in extensive community relations efforts with regard to hazardous waste sites.

Upon petition of 10 or more local residents, or on its own initiative Massachusetts develops a plan for community involvement regarding response actions. The State may provide technical assistance grants and must permit public site inspections by community representatives. Petitions for public involvement in the assessment and cleanup process have been filed for 69 sites in Massachusetts.

New York's State Superfund Management Board, which oversees remedial programs, includes environmental group and citizen representatives and its DEC has 10 full time staff members assigned to citizen participation.

Washington has established regional citizens' advisory committees and provides public participation grants to individuals and non-profit public interest groups. Alaska forms citizen advisory panels for major cleanups. Colorado's local advisory groups meet with the Department of Health bi-monthly.

CHAPTER IV

STATE PROPERTY TRANSFER PROVISIONS

Many States have enacted laws linking the discovery or cleanup of hazardous materials to private transactions affecting real property. As part of this year's update the States were asked to identify any "law, regulation, or policy that links the discovery, identification, investigation, cleanup or disclosure of hazardous substance contamination to transfers of real property, or to transfers of ownership or control of such property." In response to this question eighteen states identified laws and regulations linking superfund responsibilities to real property transactions. Those laws generally required the owner, or the state, to disclose that the property was contaminated by hazardous materials either by recording such notice with the deed, or by disclosing the information at the time of the property transaction. Thirty four States¹ reported that they have no laws linking superfund responsibilities to property transfers.

While States were not asked specifically about liens, five States² reported that they have enacted "superlien" laws giving the State a first-priority lien against property subject to a cleanup. Such superliens have priority over security interests filed prior to the state's lien.

Recording statutes

Eight States³ reported that State laws require information disclosing that property that has been or is being used for disposal or storage of hazardous substances be recorded with the recorder of deeds.⁴ In three States⁵ the recording statute is triggered by a

¹ Alabama, Alaska, Arizona, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Maine, Maryland, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Texas, Vermont, Virginia, Washington, Wisconsin and Wyoming.

² Arkansas, Connecticut, Massachusetts, New Hampshire, and New Jersey.

³ Indiana, Iowa, Louisiana, Michigan, Minnesota, Missouri, New York, and North Carolina.

⁴ RCRA regulations require the owner of property used as a Hazardous Waste Disposal Facility to record that information in the deed. 40 C.F.R. § 264.119(b)(1)(1989).

proposed transfer of the property, and in five States⁵ recording is triggered by the presence of hazardous materials or the listing of the property as a hazardous material site.

Indiana's Responsible Property Transfer Law requires completion and submission of a disclosure document prior to transfers of property that (1) contains one or more facilities that are subject to reporting under section 312 of the Federal Emergency Planning and Community Right-to-Know Act, (SARA TITLE III) (2) is the site of one or more underground storage tanks for which notification is required under Subtitle I of RCRA, or (3) is listed on the Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS). Property transfers include any conveyance of an interest in property by deed; lease (whose term, if options were exercised, would be more than 40 years); assignment of more than 25 percent interest in a land trust; a mortgage or collateral assignment of a beneficial interest in a land trust; or contract for the sale of property. The transfer document must be recorded in the office of the recorder for the county in which the property is located and with the Indiana Department of Environmental Management.

In Iowa any transferor of real property is required to provide the recorder of deeds with a statement regarding the existence of wells, disposal sites, underground storage tanks and hazardous wastes on the property. The recorder is required to forward the statement to the transferee and, if the statement reveals that there is a well, disposal site, underground storage tank or hazardous waste on the property, to the Department of Natural Resources.

Louisiana requires recordation of notices that a site either (1) has been used for disposal of hazardous waste or for a solid waste landfill, and such wastes remain; or (2) is an inactive or abandoned hazardous waste site or solid waste landfill.

In Michigan, a seller who knows that hazardous substances were released in a quantity requiring notice to EPA under CERCLA must provide written notice of the release to any purchaser. The written notice is recorded with the register of deeds. Upon completion of cleanup the owner records a certificate of completion of an approved remedial action.

In Minnesota, before any transfer of ownership of any property which the owner knew or should have known was used as the site of a hazardous waste disposal facility, or was subject to extensive contamination by release of a hazardous substance, the owner must record with the recorder of deeds an affidavit disclosing that the land was used to dispose of hazardous waste or was contaminated by a release and that the use may be restricted. The affidavit must contain a description of the property which discloses the identity,

⁵ Indiana, Iowa and West Virginia.

⁶ Louisiana, Michigan, Missouri, New York, and North Carolina.

quantity, location, condition and circumstances of the disposal or contamination to the full extent known or reasonably ascertainable.

In Missouri, notice that a site has been placed on or removed from the state registry is sent to the recorder of deeds and the information is filed so that any purchaser will be given notice.

New York requires its county clerks to index in the land records by July 1, 1993, present owners of inactive hazardous waste sites listed in the Registry of Inactive Hazardous Waste Sites.

In North Carolina property owners have 180 days from receiving a determination that property is the site of an inactive hazardous substance or waste disposal site to prepare a notice identifying the location and dimensions of the site and the type, location and quantity of hazardous materials disposed. After the Department of Environment, Health and Natural Resources approves the notice, it is recorded with the recorder of deeds. When the hazards have been eliminated from the site, the Department sends a statement that the hazards have been eliminated and requests that the recorded notice be canceled. That statement and request are then recorded and a marginal entry made noting the date of cancellation.

West Virginia requires the transferor by deed, lease or other instrument to disclose in the deed, lease, or other instrument the fact that the property was used for the storage, treatment or disposal of hazardous waste. A grantee or lessee of real estate or substrata who intends to use the property for the purpose of storing, treating or disposing of hazardous waste must provide the grantor or lessor written notice at the time of the conveyance or within thirty days prior. The notice must describe the proposed location of the site to be used for the storage, treatment, or disposal of waste, the identity of the waste, and the proposed method of storage, treatment or disposal.

Disclosure statement at time of property transfer

Ten States⁷ require the seller to disclose information about the presence of hazardous materials on the property or the use of the property for activities involving hazardous materials.

In California any owner of a nonresidential real estate property interest who knows or has reason to believe that a hazardous substance is located on or beneath the property, is required to notify, in writing, each buyer of the condition of the property prior to the sale of the property. Lessees of residential and non residential property are required to give

⁷ California, Connecticut, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, New Jersey, and West Virginia.

notice to the property's owner of any release of a hazardous substance on or beneath the property. Failure to give notice can subject the seller to liability for damages and civil penalties. Sellers of real property or residential stock cooperatives improved with or consisting of one to four dwelling units must disclose whether they are aware of the presence of any substances, materials, or products which may be an environmental hazard. Counties and cities may add disclosure requirements to the California disclosure form after July 1, 1990.

Connecticut requires anyone transferring ownership in a business or other concern that generates more than 100 kg of hazardous waste per month or which recycles, reclaims reuses, stores, handles, treats, transports, or disposes of hazardous wastes generated by another to certify to the transferee and the DEP that wastes on site are being properly managed or that the waste will be cleaned up in accordance with a DEP approved schedule. The requirements also apply to all dry cleaners, auto body repair shops, painting shops, and furniture stripping facilities operating after May 1967.

The Illinois Responsible Property Transfer Act of 1988 requires that the transferor provide the transferee and lender an environmental disclosure document for all transfers of real property that contains a facility that either manufactures, imports, or uses hazardous chemicals on site in an amount above a statutory threshold, or contains an underground storage tank that requires registration with the State Fire Marshall. The Act does not require that cleanup occur prior to transfer. Parties to the transaction may void a transfer based on the information contained in the disclosure document if the transfer has not been closed or finalized.

Indiana's Responsible Property Transfer Law requires completion and submission of a disclosure document prior to transfers of property meeting the conditions described under "Recording Statutes" above. If the disclosure document reveals environmental defects in the property that were previously unknown to the other party, the party is relieved of any obligation to accept the transfer of property or to finance the transfer of the property.

In Iowa a transferor of real property is required to provide the recorder of deeds with a statement regarding the existence of wells, disposal sites, underground storage tanks and hazardous wastes on property. The recorder is required to forward the statement to the transferee and, if the statement reveals that there is a well, disposal site, underground storage tank or hazardous waste on the property, to the Department of Natural Resources.

In Michigan a seller who knows that hazardous substances were released in a quantity requiring notice to EPA under CERCLA must provide written notice of the release to any purchaser.

In Minnesota, before any transfer of ownership of any property which the owner knew or should have known was used as the site of a hazardous waste disposal facility, or was subject to extensive contamination by release of a hazardous substance the owner must

record with the recorder of deeds an affidavit disclosing that the land was used to dispose of hazardous waste or was contaminated by a release and that the use may be restricted. The affidavit must contain a description of the property which discloses the identity, quantity, location, condition and circumstances of the disposal or contamination, to the full extent known or reasonably ascertainable. Minnesota has established a Property Transfer Technical Assistance Program to assist people in determining whether real property has been the site of a release or threatened release of a hazardous substance, pollutant or contaminant. The program may also assist in or supervise the response actions.

Missouri law provides that no person may sell, convey or transfer title to an abandoned or uncontrolled hazardous waste disposal site which is on the state registry without disclosing to the buyer early in the negotiation process that the site is on the registry, specifying applicable use restrictions and providing all registry information for the site. The seller must also notify the buyer that he may be assuming liability for any remedial action at the site. The seller must notify the Department of Natural Resources of the transfer in ownership within 30 days after the transfer.

New Jersey's 1983 Environmental Cleanup Responsibility Act (ECRA), requires the transferor of industrial property to file with the New Jersey Department of Environmental Protection and Energy (NJDEPE) 60 days prior to transfer of property, either (1) a site cleanup plan or (2) a negative declaration certifying that the property is free of environmental impairment. If the declaration proves false, or any other noncompliance with ECRA is found, the transferee or NJDEPE may void the transfer, and the transferor becomes strictly liable for cleanup costs and is subject to \$25,000 per day in fines. Transfers include (1) sale of stock, (2) sale of a controlling share of the assets, (3) conveyance of real property by deed or mortgage foreclosure, (4) dissolution of corporate identity, (5) financial reorganization, or (6) initiation of bankruptcy. Prior to consummation of the transfer the NJDEPE must approve the negative declaration, approve that cleanup has been completed, or approve an Administrative Consent Order providing for cleanup.

West Virginia requires the transferor by deed, lease or other instrument to disclose in the document the fact that the property was used for the storage, treatment or disposal of hazardous waste. A grantee or lessee of real estate or substrata who intends to use the property for the purpose of storing, treating or disposing of hazardous waste must provide the grantor or lessor written notice at the time of the conveyance or within thirty days prior. The notice must describe the proposed location of site to be used for the storage, treatment, disposal of waste, the identity of the waste, and the proposed method of storage, treatment or disposal.

Duty to investigate prior to property transfer

New Jersey requires the seller of industrial property to investigate and disclose information about the presence of hazardous materials on the property or the use of the property for activities involving hazardous material. Connecticut requires the owner to

certify that there has been no discharge or that any discharge has been or is being cleaned up. California requires disclosure when an owner has reasonable cause to believe that a site is contaminated and Minnesota requires disclosure when an owner knew or should have known of contamination.

Duty to clean up prior to property transfer

Two States, Connecticut and New Jersey, require the seller to either clean up the site prior to transfer of real property or to obtain an approved cleanup plan prior to transfer of real property. Connecticut requires the owner to certify that there has been "no discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste on-site, or that any such discharge ... has been cleaned up in accordance with procedures approved" by the State and that "any hazardous waste which remains on-site is being managed in accordance" with the law. If the owner is unable to submit a negative declaration, the transferee or any other party to the transaction must certify that the property will be cleaned up to the extent necessary to protect human health or the environment pursuant to an order, stipulated judgment or consent agreement approved by the State.

New Jersey requires any industrial establishment closing, selling, or transferring operations to submit either a negative declaration or a cleanup plan for the site prior to completing the transaction. The State must approve the negative declaration or the cleanup plan before the transaction may be completed and the owner or operator must supply financial security sufficient to guarantee performance of any cleanup plan. In the event of a false negative declaration, or completion of the transaction without prior state approval, the transaction may be voided by the State or the transferee.

Computerized data base

Seven States reported that they maintain a database of known or listed sites which is available to the public. Connecticut maintains a database from filings made by parties to property transfers. Kansas reports that listing of a site on its database stops transfers of listed property. Minnesota maintains a Property Transfer Project Identification List which provides data on 170 sites for which a person has requested property transfer assistance and a Property Transfer Notifiers List which contains information about sites where the state was notified about contamination but no request for technical assistance has been made. Montana is in the process of compiling a data base of the locations of all hazardous waste sites, which is expected to be completed in the winter of 1992. In the interim, its list and map of hazardous waste sites are available to the public. New Jersey maintains a database containing site information on sites that were the subject of an ECRA application. New York maintains a Registry of Inactive Hazardous Waste Sites. Washington maintains a database of suspected contaminated sites and all UST facilities regulated under state law, which is commonly used by consultants conducting site assessments.

PROPERTY TRANSFER PROVISIONS

No Law	34 States
Super Lien	5 States
Record on Deed	8 States
Disclose before transfer	10 States
Examine before transfer	2 States
Clean up before transfer	2 States
Data Base	7 States

CHAPTER V

50-STATE TABLES

TABLE V-1

OVERVIEW OF STATE CLEANUP ACTIVITIES AND CAPABILITIES

SUMMARY

- 29 States have Fund and enforcement capabilities with active cleanup programs.
- 12 States have Fund and enforcement capabilities with limited activities.
- 11 States have partial programs, lack Funds applicable to non-NPL cleanups, or lack enforcement authorities.

STATE PROGRAM DEVELOPMENTS

	1989	1990	1991
Full Fund and Enforcement/ Active Program	25	27	29
Full Fund and Enforcement/ Limited Activities	14	14	12
Partial Programs	11	9	11

TABLE V-1**OVERVIEW OF STATE CLEANUP ACTIVITIES AND CAPABILITIES**

REGION I	
Connecticut	Fund and enforcement capabilities - active cleanup and oversight program.
Maine	Fund and enforcement capabilities - active cleanup and oversight program.
Massachusetts	Fund and enforcement capabilities - active cleanup and oversight program.
New Hampshire	Fund and enforcement capabilities - active cleanup and oversight program.
Rhode Island	Fund and enforcement capabilities - active cleanup and oversight program.
Vermont	Fund and enforcement capabilities contained in two statutes - fund for cleanup and oversight limited.
REGION II	
New Jersey	Fund and enforcement capabilities - active cleanup and oversight program.
New York	Fund and enforcement capabilities - active cleanup and oversight program.
Puerto Rico	Limited fund and enforcement authority.
REGION III	
Delaware	Fund and enforcement capabilities - program under development following enactment of cleanup statute.
District of Columbia	Enforcement capabilities - fund limited to underground storage tank cleanup.
Maryland	Fund and enforcement capabilities - first allocations from fund recently approved.
Pennsylvania	Fund and enforcement capabilities - active cleanup and oversight program.
Virginia	Fund and enforcement capabilities - fund is limited.
West Virginia	Limited fund capabilities - enforcement only under RCRA-type hazardous waste law.
REGION IV	
Alabama	Fund and enforcement capabilities - limited fund.
Florida	Fund and enforcement capabilities - active cleanup and oversight program.
Georgia	Fund and enforcement capability - limited fund and enforcement capabilities under Hazardous Waste Management Act.
Kentucky	Fund and enforcement capabilities - active cleanup and oversight program.
Mississippi	Fund and enforcement capabilities - must use enforcement provisions in other statutes or regulations, however.
North Carolina	Fund and enforcement capabilities - two funds available to program, which is concentrating on voluntary compliance.
South Carolina	Fund and enforcement capabilities - active cleanup and oversight program.
Tennessee	Fund and enforcement capabilities - active cleanup and oversight program.

TABLE V-1 (Cont'd)

OVERVIEW OF STATE CLEANUP ACTIVITIES AND CAPABILITIES

REGION V	
Illinois	Fund and enforcement capabilities - active cleanup and oversight program.
Indiana	Fund and enforcement capabilities - active cleanup and oversight program.
Michigan	Fund and enforcement capabilities - active cleanup and oversight program.
Minnesota	Fund and enforcement capabilities - active cleanup and oversight program.
Ohio	Fund and enforcement capabilities - active cleanup and oversight program.
Wisconsin	Fund and enforcement capabilities under several statutes - active cleanup and oversight program.
REGION VI	
Arkansas	Fund and enforcement capabilities - limited program activities.
Louisiana	Fund and enforcement capabilities - active cleanup and oversight program.
New Mexico	Some fund and enforcement capabilities - fund and program activities limited.
Oklahoma	Some fund and enforcement capabilities - fund and program activities limited.
Texas	Fund and enforcement capabilities - active cleanup and oversight program.
REGION VII	
Iowa	Fund and enforcement capabilities - fund for cleanup limited.
Kansas	Fund and enforcement capabilities - active cleanup and oversight program.
Missouri	Fund and enforcement capabilities - active cleanup and oversight program.
Nebraska	No fund and limited program activity - limited enforcement authority.
REGION VIII	
Colorado	No fund for State cleanup - enforcement under other statutes or Federal authority.
Montana	Enforcement capability and limited fund - fund and program activities limited to date.
North Dakota	Limited fund and program activity - some enforcement authority in a separate statute.
South Dakota	Fund and enforcement capabilities - program activity and fund are limited.
Utah	Fund and enforcement capabilities - program activity is limited.
Wyoming	Limited enforcement authority and fund - limited program activity.
REGION IX	
Arizona	Fund and enforcement capabilities - active cleanup and oversight program.
California	Fund and enforcement capabilities - active cleanup and oversight program.
Hawaii	Fund and enforcement authority - program activity limited. In the process of developing administrative rules.
Nevada	Limited fund and enforcement authority - program activity limited. In the process of developing administrative rules.

TABLE V-1 (Cont'd)

OVERVIEW OF STATE CLEANUP ACTIVITIES AND CAPABILITIES

REGION X	
Alaska	Fund and enforcement capabilities - active cleanup and oversight program.
Idaho	Limited fund - no enforcement authority specifically for cleanup of hazardous waste sites. Program activity limited.
Oregon	Fund and enforcement capabilities - active cleanup and oversight program.
Washington	Fund and enforcement capabilities - active cleanup and oversight program.

TABLE V-2
STATUTORY AUTHORITIES AND PROVISIONS
SUMMARY

- 44 States have full Fund capabilities.
- 41 States have enforcement capabilities under "superfund" laws.
- 39 States have statutes providing full Fund and enforcement capabilities.
- 2 States have no fund.
- 6 States have limited Fund capabilities (e.g., limited to emergency response and CERCLA match).
- 11 States have enforcement authorities only in statutes other than their "superfund" laws.
- 24 States report statutory provision for a priority list.
- 17 States report some type of citizen suit provision.
- 14 States provide some kind of victim compensation.

TABLE V-2
STATUTORY AUTHORITIES AND PROVISIONS

State	Statute	Cleanup Fund	Enforcement Authorities	Priority List	Citizen Suit Provision	Victim Compensation	Property Transfer Program
REGION I							
Connecticut	• Public Act, 87-561		X	X			
	• Emergency Spill Response Fund	X	X			WS	
	• Special Acts 87-77, 86-54	X					
	• Transfer of Hazardous Waste Establishments Program						M
Maine	• Uncontrolled Hazardous Substance Sites Act	X	X				
	• Act to assist in cleanup of contaminated property (Innocent Landowner Protection from liability for spills caused by others)						
Massachusetts	Oil & Hazardous Material Release Prevention and Response Act	X	X	X			
New Hampshire	Hazardous Waste Laws	X	X				
	Hazardous Waste Management Act	X	X		X ¹	X ²	
Vermont	• Solid Waste Management Law	X	X			X ³	
	• Water Pollution Control Law	X	X			X	
	• Petroleum Cleanup Fund	X	X				
REGION II							
New Jersey	• Spill Compensation and Control Act	X	X			X	
	• Environmental Cleanup Responsibility Act		X				M
New York	• Abandoned Sites Act of 1979		X				
	• State Superfund Act	X				WS	
	• Environmental Quality Bond Act of 1986	X		X			M
Puerto Rico	• Environmental Emergencies Fund Act, Law 81	X	O				

Codes: ER = Emergency response and removals
 CS = CERCLA share
 O = Other statutes
 WS = Water supplies
 M = Mandatory
 V = Voluntary

TABLE V-2 (Cont'd)

STATUTORY AUTHORITIES AND PROVISIONS

State	Statute	Cleanup Fund	Enforcement Authorities	Priority List	Citizen Suit Provision	Victim Compensation	Property Transfer Program
REGION III							
Delaware	Hazardous Substance Cleanup Act	X	X	X			
District of Columbia	Hazardous Waste Management Act		X				
Maryland	Code of Maryland, Health -- Environmental Article	X	X	X		WS	
Pennsylvania	Hazardous Sites Cleanup Act	X	X	X	X	WS	
Virginia	Waste Management Act	X	X				
West Virginia	Hazardous Waste Emergency Response Fund Act	X	O				M
REGION IV							
Alabama	Hazardous Substance Cleanup Fund	X	X				
Florida	• Pollutant Discharge Prevention and Removal Act	X	X ⁴			WS	
	• Resource Recovery and Management Act	X ⁵	X				
Georgia	Hazardous Waste Management Act	X	O				
Kentucky	Rev. Stat. Ann. § 224.876(13) and other Sections of Chapter 224	X	X		X		
Mississippi	Solid Waste Disposal Act of 1974	X	O				
North Carolina	• Inactive Hazardous Sites Response Act of 1987, §130A-310	X	X	X			M
	• Solid Waste Management Laws, §306, 8130A-306	X	X			WS	
South Carolina	Hazardous Waste Management Act	X	X				
Tennessee	Hazardous Waste Management Act of 1983	X	X				

Codes: ER = Emergency response and removals
 CS = CERCLA share
 O = Other statutes
 WS = Water supplies
 M = Mandatory
 V = Voluntary

TABLE V-2 (Cont'd)

STATUTORY AUTHORITIES AND PROVISIONS

State	Statute	Cleanup Fund	Enforcement Authorities	Priority List	Citizen Suit Provision	Victim Compensation	Property Transfer Program
REGION V							
Illinois	Environmental Protection Act	X	X	X			M
Indiana	• Hazardous Waste Act	X	X	X			M
	• Responsible Property Transfer Law						
Michigan	Environmental Response Act	X	X		X		M
Minnesota	Environmental Response and Liability Act	X	X	X	X	X	M, V
Ohio	Solid and Hazardous Waste Disposal Law	X	X	X			
Wisconsin	• Environmental Repair Statute	X ⁶	X	X			
	• Abandoned Container Statute						
	• Hazardous Substance Spill Statute						
REGION VI							
Arkansas	• Remedial Action Trust Fund	X	X	X			
	• Emergency Response Fund Act	X	X				
Louisiana	• Environmental Quality Law	X	X		X		M
	• Liability for Hazardous Substance Remedial Action		X				
	• Hazardous Waste Control Law	ER, CS	X				
	• Inactive and Abandoned Hazardous Waste Site Law	ER		X			V
New Mexico	Hazardous Waste Emergency Fund	ER, CS	O				
Oklahoma	• Controlled Industrial Waste Disposal Act	ER, CS	O				
	• Controlled Industrial Waste Fund Act	ER					
Texas	Solid Waste Disposal Act	X ⁷	X			X	

Codes: ER = Emergency response and removals
 CS = CERCLA share
 O = Other statutes
 WS = Water supplies
 M = Mandatory
 V = Voluntary

TABLE V-2 (Cont'd)

STATUTORY AUTHORITIES AND PROVISIONS

State	Statute	Cleanup Fund	Enforcement Authorities	Priority List	Citizen Suit Provision	Victim Compensation	Property Transfer Program
REGION VII							
Iowa	Environmental Quality Act	X	X	X	X	WS	M ⁸
Kansas	Environmental Response Act	X	X				
Missouri	Hazardous Waste Management Law	X	X	X			M ⁹
Nebraska	Environmental Protection Act		O ¹⁰		X ¹¹		
REGION VIII							
Colorado	Hazardous Substance Response Fund CERCLA Recovery Fund (Account receives awards from natural resource damages)	CS ¹²	O				
Montana	Comprehensive Environmental Cleanup and Responsibility Act	X	X	X			
North Dakota	Environmental Quality Restoration Fund Act	X	O		O		
South Dakota	Regulated Substance Discharge Law	X	X				
Utah	Hazardous Substances Mitigation Act	X	X	X			
Wyoming	Environmental Quality Act	ER	O		X		
REGION IX							
Arizona	Environmental Quality Act	X ¹³	X	X	X		
California	Hazardous Substance Account Act	X	X	X	X ¹⁴	X ¹⁵	M
Hawaii	Environmental Response Act	X	X	X	X	WS	
Nevada	Rev. Stat. "Hazardous Waste Statute"	ER, CS	X				

Codes: ER = Emergency response and removals
 CS = CERCLA share
 O = Other statutes
 WS = Water supplies
 M = Mandatory
 V = Voluntary

TABLE V-2 (Cont'd)

STATUTORY AUTHORITIES AND PROVISIONS

State	Statute	Cleanup Fund	Enforcement Authorities	Priority List	Citizen Suit Provision	Victim Compensation	Property Transfer Program
REGION X							
Alaska	• Oil and Hazardous Substance Releases Law	X		X			
	• Hazardous Substance Release Control Law		X				
	• Liability and Cost for Oil and Hazardous Substances Discharge Law		X				
Idaho	Hazardous Waste Management Act	ER	O		X		
Oregon	Environmental Cleanup Law	X	X	X			
Washington	Model Toxics Control Act	X	X	X	X	WS	

1. During interviews, Department of Environmental Management staff indicated the possibility of citizen suits, but provided no statutory citation. (RI)
2. Limited to temporary resident relocation and temporary water supplies (§ 23-19.1-23). (RI)
3. Reimbursement for costs of alternative water supplies or other emergency measures. (VT)
4. Enforcement authority limited to provision for joint and several liability. (FL)
5. Creates repository for federal grant monies. (FL)
6. Establishes fund, other statutes authorize fund uses. (WI)
7. Spill Response Fund established also by Hazardous Substances Spill Prevention & Control Act. (TX)
8. Declaration must be filed by transferor of real property with county and transferee. Also agency permission required to transfer site listed on registry. (IA)
9. Seller of site on registry must notify DNR within 30 days of transfer. Potential buyers must be notified of site listing. (MO)
10. Limited enforcement authority if groundwater affected. (NE)
11. Limited to solid waste disposal violations in cities of 1st Class. (NE)
12. Fund can also be used for related administrative costs. (CO)
13. Two additional funds, authorized under the Hazardous Waste Disposal Law, provide monies for limited cleanup activities. (AZ)
14. Under separate act (Proposition 65). (CA)
15. Hazardous Substance Victim's Compensation Fund authorized with appropriations up to \$2M/yr. No appropriations to date. Three small claims have been paid out of Hazardous Substance Account. (CA)

Codes: ER = Emergency response and removals
 CS = CERCLA share
 O = Other statutes
 WS = Water supplies
 M = Mandatory
 V = Voluntary

TABLE V-3
HAZARDOUS WASTE SITES
SUMMARY

- 34 States have an inventory/registry or a priority list of hazardous waste sites.
- Total known and suspected hazardous waste sites in a State range from 0 (the District of Columbia) to 26,000 (California).
- Sites identified as needing attention in States range from 1 to 2512 (Massachusetts).
- Each State establishes its own criteria for placing sites on an inventory/registry, priority list, or list of sites needing attention.

**TABLE V-3
HAZARDOUS WASTE SITES**

	NPL Sites			State Sites		
	Final	Proposed	Total	Total Known and Suspected Sites	Sites Identified as Needing Attention	Priority List or Registry
REGION I						
Connecticut	15	0	15	1150	890	585 (\$ State-funded)
Maine	9	0	9	373	373	160
Massachusetts	25	0	25	5137	2512 (includes NPL sites)	474
New Hampshire	16	1	17	400+	150-175	400+
Rhode Island	11	1	12	290		
Vermont	8	0	8	959 (includes petroleum & non-petroleum sites)	959	1100 (includes petroleum & non-petroleum)
REGION II						
New Jersey	109	0	109	being inventoried (at least several thousand)		~600 major sites
New York	83	21	104	1,464	946	1052
Puerto Rico	9	0	9	~200		
REGION III						
Delaware	20	0	20	250	70	under development
District of Columbia	0	0	0	0	0 (3 sites identified and cleaned up)	
Maryland	9	1	10	531	393	40
Pennsylvania	94	2	96	2685	1067	8
Virginia	20	0	20	531		100
West Virginia	5	0	5	431		

**TABLE V-3 (Cont'd)
HAZARDOUS WASTE SITES**

	NPL Sites			State Sites			
	Final	Proposed	Total	Total Known and Suspected Sites	Sites Identified as Needing Attention	Priority List or Registry	
REGION IV							
Alabama	10	2	12	400-500		400-500	
Florida	54	1	55	980	708	708	708
Georgia	13	0	13	753+		67	67
Kentucky	17	2	19	600		600	600
Mississippi	2	0	2	599	170		
North Carolina	22	0	22	925	672		101
South Carolina	23	0	23	425		88	88
Tennessee	14	0	14	1000		164	164
REGION V							
Illinois	37	0	37	1325	224		33
Indiana	32	0	32	1500	39		
Michigan	78	0	78	~4300		3437	
Minnesota	42	0	42	447	146		178
Ohio	33	0	33	1300	700		140
Wisconsin	39	0	39	4000	650		62

TABLE V-3 (Cont'd)
HAZARDOUS WASTE SITES

	NPL Sites			State Sites		
	Final	Proposed	Total	Total Known and Suspected Sites	Sites Identified As Needing Attention	Priority List or Registry
REGION VI						
Arkansas	10	0	10	351	101	7
Louisiana	11	0	11	637		637
New Mexico	10	0	10	600	220	
Oklahoma	10	0	10	30		
Texas	25	0	25	over 1000	under 500	38
REGION VII						
Iowa	20	1	21	454	155	64 (20 proposed)
Kansas	11	0	11	412		412
Missouri	22		22	1250	600	48 (10 proposed)
Nebraska	6	2	8	334	38	
REGION VIII						
Colorado	16	0	16	420		
Montana	8	0	8	227	227	25
North Dakota	2	0	2	59	3	
South Dakota	3	1	4	73		
Utah	11	1	12	210	195	
Wyoming	3	0	3	100-120	86	

TABLE V-3 (Cont'd)
HAZARDOUS WASTE SITES

	NPL Sites			State Sites		
	Final	Proposed	Total	Total Known and Suspected Sites	Sites Identified As Needing Attention	Priority List or Registry
REGION IX						
Arizona	10	1	11	800 +	500	24
California	86	2	88	26,000 (Potential)	400	328
Hawaii	1	1	2	140		
Nevada	1	0	1	160	40	
REGION X						
Alaska	6	0	6	700		900
Idaho	9	0	9	164	164	
Oregon	8	0	8	962	114	53
Washington	45	4	49	950	311	311

TABLE V-4
PROGRAM ORGANIZATION
SUMMARY

- Program staff levels range from one staff member to approximately 800 positions (New Jersey).
- 40 States rely on the State AG's office for legal support.
- 30 States report increases in staff levels from 1990; seven States report decreases.

STATE STAFFING DEVELOPMENTS

	1989	1990	1991
10 or less Staff	16	11	11
11 to 50 Staff	25	27	28
51 to 100 Staff	3	4	3
Over 100 Staff	6	8	10

TABLE V-4
PROGRAM ORGANIZATION

Agency	Program (Number of Staff)	Legal Support (Number of Staff)	
REGION I			
Connecticut	Department of Environmental Protection	Site Remediation and Closure Division (48)	AG's Office (2-3 FTE)
Maine	Department of Environmental Protection	Site Investigation and Remediation Division (27)	AG's Office (1-1/2)
Massachusetts	Department of Environmental Protection	Waste Site Cleanup Program (460 authorized, 208 funded)	<ul style="list-style-type: none"> ● DEP (12) ● AG's Office (8)
New Hampshire	Department of Environmental Services	<ul style="list-style-type: none"> ● Waste Management Division (several) ● Water Supply and Pollution Control Division (3) 	AG's Office (legal support)
Rhode Island	Department of Environmental Management	Environmental Response Section (12)	<ul style="list-style-type: none"> ● DEM ● AG's Office (2)
Vermont	Agency of Natural Resources	Hazardous Sites Management Section ¹ (11)	AG's Office (3, half-time)
REGION II			
New Jersey	Department of Environmental Protection and Energy	<ul style="list-style-type: none"> ● Division of Publicly Funded Site Remediation (400) ● Division of Responsible Party Site Remediation (over 390) 	<ul style="list-style-type: none"> ● AG's Office, Hazardous Waste Litigation Section (30)
New York	Department of Environmental Conservation	<ul style="list-style-type: none"> ● Division of Hazardous Waste Remediation (321) ● Department of Health (82) 	<ul style="list-style-type: none"> ● NYDEC (20) ● AG's Office (7)
Puerto Rico	Environmental Quality Board	<ul style="list-style-type: none"> ● Hazardous Waste Site Inventory Program (6) ● Superfund Core Division (7) ● Emergency Response Team (3) 	EQB legal department (1)
REGION III			
Delaware	Department of Natural Resources and Environmental Control	Division of Air and Waste Management, Superfund Branch (20)	AG's Office (1)
District of Columbia	Department of Consumer and Regulatory Affairs	Environmental Regulation Administration Pesticides, Hazardous Waste and Underground Storage Tank Division (5)	None
Maryland	Department of the Environment	CERCLA Program: Preremedial (14) Response (13) CORE (7)	AG's Office (2, 75% of their time)
Pennsylvania	Department of Environmental Resources	<ul style="list-style-type: none"> ● Emergency Response (13) ● Hazardous Sites Cleanup Program (127) 	DER Chief Counsel's Office (18)
Virginia	Department of Waste Management	Division of Special Programs (22)	AG's Office (1)
West Virginia	Department of Commerce, Labor, and Natural Resources	Site Investigation and Response Office (11)	AG's Office (1)

1. Certain percentage of staff dedicated to federal and State Superfund work.

TABLE V-4 (Cont'd)
PROGRAM ORGANIZATION

Agency	Program (Number of Staff)	Legal Support (Number of Staff)
REGION IV		
Alabama	Department of Environmental Management Special Projects Office (12) • Remedial Unit (3) • Site Assessment/State Superfund Unit (9 ¹)	DEM (6)
Florida	Department of Environmental Regulation • Bureau of Waste Cleanup (60) • Emergency Response (12)	DER's Office General Counsel (2)
Georgia	Department of Natural Resources Environmental Protection Division (3), 11 additional positions authorized	Department of Law
Kentucky	Natural Resources and Environmental Protection Cabinet Uncontrolled Sites Branch (26)	Department of Law, Waste Legal Branch (2)
Mississippi	Department of Environmental Quality Hazardous Waste Division, CERCLA Section (15 positions)	AG's Office (2)
North Carolina	Department of Environment, Health & Natural Resources Superfund Section (25)	AG's Office (2)
South Carolina	Department of Health and Environmental Control Site Engineering and Screening Division (16) • Site Screening Section (9) • Site Engineering Section (7)	DHEC (8 ¹)
Tennessee	Department of Environment and Conservation Division of Superfund (53 authorized, 39 filled)	• DHEC (2) • AG's Office
REGION V		
Illinois	Environmental Protection Agency Division of Land Pollution Control (263) • Clean Illinois (48)	• AG's Office • IEPA's Office of Legal Counsel (7)
Indiana	Department of Environmental Management Project Management Branch (40)	• DEM (6) • AG's Office (3)
Michigan	Department of Natural Resources Environmental Response Division (227 authorized, at least 163 filled)	AG's Office (7.5)
Minnesota	Pollution Control Agency • Site Response Section (65) • Program Development Section (15) • Solid Waste Section (18)	• AG's Office (3)
Ohio	Ohio Environmental Protection Agency Division of Emergency and Remedial Response (154)	• OEPA (7) • AG's Office (3)
Wisconsin	Department of Natural Resources Emergency and Remedial Response (96) Environmental Repair (State) (14)	• DNR (3) • AG's Office (4)

1. Certain percentage of staff dedicated to federal and State Superfund work.

TABLE V-4 (Cont'd)
PROGRAM ORGANIZATION

Agency	Program (Number of Staff)	Legal Support (Number of Staff)	
REGION VI			
Arkansas	Department of Pollution Control and Ecology	Hazardous Waste Division: Superfund Branch (1) (10 staff authorized for FY92-93)	DPCE (8)
Louisiana	Department of Environmental Quality	Inactive and Abandoned Sites Division (46 authorized, 38 filled)	DEQ (1)
New Mexico	Environment Department	<ul style="list-style-type: none"> • Toxic Sites Bureau, Superfund Section (10) • Toxic Sites Bureau, Remediation Section (6) • Other NMED staff (15) 	NMED General Counsel (10)
Oklahoma	Oklahoma State Department of Health	Solid Waste Management Service (7)	OSDH (1)
Texas	Texas Water Commission	Hazardous and Solid Waste Division (38)	AG's Office (3) and Commission Legal Staff
REGION VII			
Iowa	Department of Natural Resources	Solid Waste Section (9.75 F.T.E.)	<ul style="list-style-type: none"> • DNR Legal Services (1, less than half-time) • AG's Office
Kansas	Department of Health and Environment	Bureau of Environmental Remediation (35)	DHE (2)
Missouri	Department of Natural Resources	<ul style="list-style-type: none"> • Hazardous Waste Program, Superfund Section (21) • Environmental Services Program (10) 	<ul style="list-style-type: none"> • DNR (1/2 FTE) • AG's Office (1 FTE)
Nebraska	Department of Environmental Control	Hazardous Waste Section (8)	<ul style="list-style-type: none"> • DEC (5¹) • AG's Office (2¹)
REGION VIII			
Colorado	Department of Health	<ul style="list-style-type: none"> • Remedial Programs Section (15) • Hazardous Waste Control (2) • Solid Waste and Incident Management (2) 	AG's Office (14)
Montana	Department of Health and Environmental Sciences	Superfund Program (25)	Special Assistant Attorney General (3)
North Dakota	Department of Health and Consolidated Laboratories	Division of Waste Management Hazardous Waste Program (5)	AG's Office (1)
South Dakota	Department of Environment and Natural Resources	Division of Environmental Regulation (2 FTEs)	AG's Office
Utah	Department of Environmental Quality	Division of Environmental Response and Remediation, Superfund Branch (20)	<ul style="list-style-type: none"> • Division of Environmental Response and Remediation (1) • AG's Office (3)
Wyoming	Department of Environmental Quality	<ul style="list-style-type: none"> • Water Quality Division (one full-time staff) • Solid Waste Management Division (no full-time) • Air Quality Division (no full-time) 	AG's Office (1, half-time)

1. Certain percentage of staff dedicated to federal and State Superfund work.

TABLE V-4 (Cont'd)
PROGRAM ORGANIZATION

	Agency	Program (Number of Staff)	Legal Support (Number of Staff)
REGION IX			
Arizona	Department of Environmental Quality	<ul style="list-style-type: none"> ● Office of Waste Programs (14¹) ● Office of Water Quality (7) 	AG's Office (2)
California	Department of Toxic Substances Control	Site Mitigation Program (233)	<ul style="list-style-type: none"> ● DHS (4-5) ● AG's Office (9)
Hawaii	Department of Health	Remedial Response Program (20)	AG's Office
Nevada	Department of Conservation and Natural Resources	Waste Management Bureau: Superfund Branch (3 ¹)	AG's Office (2, part-time)
REGION X			
Alaska	Department of Environmental Conservation	Division of Soil, Prevention & Response, Contaminated Sites Section (44)	AG's Office (3)
Idaho	Department of Health and Welfare	Division of Environmental Quality <ul style="list-style-type: none"> ● Division of Planning and Education ● Division of Community Programs (25 authorized, 17 filled for the 2 divisions) 	AG's Office (4)
Oregon	Department of Environmental Quality	Environmental Cleanup Division (66)	AG's Office (1 FTE)
Washington	Department of Ecology	Toxics (148)	AG's Office (3-4 FTEs)

1. Certain percentage of staff dedicated to federal and State Superfund work.

TABLE V-5

PROGRAM ADMINISTRATION AND STAFF: FUNDING SOURCES

SUMMARY

- 33 States receive funding for program administration and staff from the State's General Fund.
- 33 States receive administration funds from their hazardous waste cleanup fund.
- 49 States receive federal funding for program administration and staff.

STATE PROGRAM FUNDING DEVELOPMENTS

	1989	1990	1991
Support from General Fund	30	32	33
Support from Cleanup Fund	23	29	33

TABLE V-5
PROGRAM ADMINISTRATION AND STAFF:
FUNDING SOURCES

	State General Fund	Cleanup Fund	Federal Grants	Other
REGION I				
Connecticut	X	X	X	X (property transfer fees)
Maine	X	X	X	X (Dedicated revenues from Solid Waste Fund and Landfill Closure Bond Account)
Massachusetts	X	X	X	X (unspecified)
New Hampshire		X	X	
Rhode Island		X	X	
Vermont	X		X	
REGION II				
New Jersey		X	X	X (cost recovery)
New York	X	X	X	
Puerto Rico	X	X	X	
REGION III				
Delaware	X	X	X	
District of Columbia				
Maryland	X		X	X (cost recovery funds)
Pennsylvania	X	X	X	
Virginia	X		X	
West Virginia		X	X	
REGION IV				
Alabama	X		X	
Florida	X	X	X	
Georgia	X		X	
Kentucky	X		X	
Mississippi	X		X	CA with RPs
North Carolina	X		X	
South Carolina	X		X	
Tennessee		X	X	

TABLE V-5 (Cont'd)
PROGRAM ADMINISTRATION AND STAFF:
FUNDING SOURCES

	State General Fund	Cleanup Fund	Federal Grants	Other
REGION V				
Illinois	X	X	X	
Indiana	X	X	X	
Michigan	X	X	X	
Minnesota		X	X	RP reimbursement and penalties.
Ohio		X	X	Solid waste disposal fees
Wisconsin	X	X	X	Various funds authorized by state statutes
REGION VI				
Arkansas		X	X	
Louisiana	X		X	UST and Motor Fuels Trust Funds
New Mexico	X	X	X	
Oklahoma			X	
Texas		X	X	
REGION VII				
Iowa		X	X	Oil Overcharge Fund
Kansas	X		X	RP reimbursement
Missouri	X	X	X	
Nebraska			X	

TABLE V-5 (Cont'd)

**PROGRAM ADMINISTRATION AND STAFF:
FUNDING SOURCES**

	State General Fund	Cleanup Fund	Federal Grants	Other
REGION VIII				
Colorado		X	X	
Montana	X	X	X	X (3 RP-funded positions)
North Dakota	X			X (Federal RCRA grants)
South Dakota		X	X	
Utah	X	X	X	X (voluntary contributions)
Wyoming	X (1/2)		X (1/2)	
REGION IX				
Arizona	X			X (taxes, fees, penalties)
California		X	X	X (Bond Fund)
Hawaii	X	X	X	
Nevada			X	X (Hazardous Waste Fees)
REGION X				
Alaska	X	X	X	
Idaho	X		X	
Oregon		X	X	
Washington		X	X	

TABLE V-6
STATE/FEDERAL PARTNERSHIP
SUMMARY

- 50 States have some type of Cooperative Agreement with EPA.
- 22 States have Site-Specific Cooperative Agreements with EPA.
- 38 States have Multi-Site Cooperative Agreements with EPA.
- 30 States have Support Agency Cooperative Agreements from EPA.
- 45 States have Core Program Cooperative Agreements from EPA.
- 18 States have signed a Superfund Memorandum of Agreement (SMOA).
- 9 States have a draft or are in negotiations for a SMOA.

STATE/FEDERAL PARTNERSHIP DEVELOPMENTS

	1989	1990	1991
CAs	44	44	50
MSCAs	19	22	38
SACAs	34	31	30
CPCAs	41	41	45
SMOAs	10	17	18

TABLE V-6
STATE/FEDERAL PARTNERSHIP

	SSCAs	MSCAs	SACAs	CPCAs	SMOAs
REGION I					
Connecticut		X		X	
Maine		X		X	
Massachusetts	X	X		X	
New Hampshire	X	X	X	X	
Rhode Island	X	X		X	
Vermont		X	X	X	X
REGION II					
New Jersey	X	X		X	
New York	X	X	X	X	D
Puerto Rico			X	X	N
REGION III					
Delaware		X	X	X	X
District of Columbia				X	N
Maryland		X		X	N
Pennsylvania		X			
Virginia	X	X	X	X	X
West Virginia		X		X	X
REGION IV					
Alabama			X	X	X
Florida	X				
Georgia			X	X	
Kentucky				X	N
Mississippi		X		X	X
North Carolina		D	X	X	
South Carolina			X	X	X
Tennessee			X	X	
REGION V					
Illinois	X	X		X	X
Indiana	X	X	X	X	D
Michigan	X	X		X	X
Minnesota	X		X	X	X
Ohio		X		X	X
Wisconsin	X		X	X	N

D = Draft
N = In negotiation

TABLE V-6 (Cont'd)
STATE/FEDERAL PARTNERSHIP
SUMMARY

	SSCAs	MSCAs	SACAs	CPCAs	SMOAs
REGION VI					
Arkansas		X	X	X	
Louisiana	X	X	X		X
New Mexico	X	X		X	X
Oklahoma		X	X	X	N
Texas		X	X	X	X
REGION VII					
Iowa	X	X	X	X	
Kansas	X	X	X	X	
Missouri	X	X	X	X	D
Nebraska	X	X	X	X	
REGION VIII					
Colorado		X	X	X	X
Montana	X	X		X	
North Dakota					
South Dakota		X	X	X	
Utah	X	X		X	X
Wyoming					
REGION IX					
Arizona		X			
California		X	X	X	
Hawaii		X	X		
Nevada		X		X	
REGION X					
Alaska		X	X	X	
Idaho	X	X	X	X	
Oregon		X	X	X	X
Washington	X		X	X	X

D = Draft
N = In negotiation

TABLE V-7

FUNDING OF STATE CLEANUP ACTIVITIES

SUMMARY

- 50 States have cleanup funds, 2 States have no fund.
- 18 States have more than one fund or Account.
- Total State superfund balance for all States is \$603.7M (unobligated) with an additional \$1,614.8M authorized in bonds in 6 States.
- On average, States have fund balances of \$11.6M available for cleanup activities (excluding bond authorizations above).
- The median State fund balance is \$3.75M (excluding bond authorizations).
- The 15 States with fund balances over \$10M (excluding bond authorizations) contain \$527.8M, 87% of the total State superfund balance.
- Including bond authorizations, fund balances are distributed as follows:
 - 2 States have no fund (NE and DC)
 - 13 States have less than \$1M
 - 14 States have between \$1M and \$5M
 - 5 States have between \$5M and \$10M
 - 14 States have between \$10M and \$50M
 - 4 States have more than \$50M
- For the 34 States providing information, total annual additions to State funds are estimated to be \$381.6M/year (a 13% increase from 1990).
- Sources of funds comprising more than 20% of fund additions are:
 - Fees (25 funds in 22 States)
 - Appropriations (19 funds in 17 States)
 - Bonds (15 funds in 13 States)
 - Penalties and fines (15 funds in 14 States)
 - Taxes (13 funds in 12 States)
 - Cost recoveries (11 funds in 10 States)

TABLE V-7

FUNDING OF STATE CLEANUP ACTIVITIES

Fund	Fund Balance (date)	Annual Additions	Source(s) of Funds
REGION I			
Connecticut	<ul style="list-style-type: none"> • Emergency Spill Response Fund • \$2(e)(5) of Special Act 86-54 • \$29 of Special Act 87-77 	<ul style="list-style-type: none"> • N/A • None • \$5M (FY 89/90) 	<ul style="list-style-type: none"> • A C P T • B • B
Maine	<ul style="list-style-type: none"> • Uncontrolled Substances Sites Bond Account • Uncontrolled Sites Fund • Landfill Closure/Remediation Bond Account • Solid Waste Fund 	<ul style="list-style-type: none"> • Variable • Variable • Variable • \$600K (8/91) 	<ul style="list-style-type: none"> • B c • C g i p • B C g i p • F t
Massachusetts	<ul style="list-style-type: none"> • Massachusetts General Fund • Environmental Challenge Fund 	<ul style="list-style-type: none"> • N/A • \$37M (Bonds) (7/91) • Zero (7/91) 	<ul style="list-style-type: none"> • B c F • C P
New Hampshire	<ul style="list-style-type: none"> • Hazardous Waste Cleanup Fund • Bond Fund 	<ul style="list-style-type: none"> • Approx. \$800K 	<ul style="list-style-type: none"> • C F P • B
Rhode Island	<ul style="list-style-type: none"> • Environmental Response Fund 	<ul style="list-style-type: none"> • \$800K (10/91) 	<ul style="list-style-type: none"> • B c p
Vermont	<ul style="list-style-type: none"> • Environmental Contingency Fund • Petroleum Cleanup Fund 	<ul style="list-style-type: none"> • \$1M (8/91) • \$3.1M (9/91) 	<ul style="list-style-type: none"> • \$670K (1991) • \$3M/year

- Codes:
- A-a Appropriations
 - B,b Bonds
 - C,c Cost recoveries
 - F,f Fees
 - G,g General public/private funds
 - I,i Interest on fund or other state investments
 - P,p Penalties or fines
 - R,r Transfers
 - T,t Taxes

Note: Capital letter indicates major source of funds (20%+). Fund balances indicate unobligated funds unless otherwise noted.

TABLE V-7 (Cont'd)

FUNDING OF STATE CLEANUP ACTIVITIES

Fund	Fund Balance (date)	Annual Additions	Source(s) of Funds
REGION II			
New Jersey	<ul style="list-style-type: none"> • Spill Compensation Fund • Hazardous Discharge Site Cleanup Fund • Capital Fund 	<ul style="list-style-type: none"> • \$94.4M (6/91) • \$115.7M (9/91) (\$200M in bonds authorized) • \$0 (6/91) 	<ul style="list-style-type: none"> • c i p T • A B c P • A c
New York	Hazardous Waste Remedial Fund	\$3.5M (3/91) carry over (\$973M in bonds)	A B c F i p
Puerto Rico	Environmental Response Fund	\$2.9M (6/91) (some of which is encumbered)	a c
REGION III			
Delaware	Hazardous Substance Cleanup Fund	\$2.5M (10/91)	c i p T
District of Columbia	None ¹		
Maryland	Subaccount of Hazardous Substance Control Fund	\$8.25M (11/91)	a B c P
Pennsylvania	Hazardous Sites Cleanup Fund	\$21.8M (6/91)	A c f i p T
Virginia	Solid and Hazardous Waste Contingency Fund	\$73K (6/91)	a c P
West Virginia	Hazardous Waste Emergency Response Fund	\$1.28M (9/91) (\$60K is encumbered for CERCLA match)	c F i P

- Codes:
- A,a Appropriations
 - B,b Bonds
 - C,c Cost recoveries
 - F,f Fees
 - G,g General public/private funds
 - I,i Interest on fund or other state investments
 - P,p Penalties or fines
 - R,r Transfers
 - T,t Taxes

Note: Capital letter indicates major source of funds (20%+). Fund balances indicate unobligated funds unless otherwise noted.

TABLE V-7 (Cont'd)

FUNDING OF STATE CLEANUP ACTIVITIES

	Fund	Fund Balance (date)	Annual Additions	Source(s) of Funds
REGION IV				
Alabama	Hazardous Substance Cleanup Fund	\$147K (9/91)	\$50K	A c p
Florida	• Water Quality Assurance Trust Fund	• \$13.5M (5/91)	• \$24.3M (projected)	• c f l p T
	• Hazardous Waste Management Trust Fund	• \$167K (10/91)	• Variable	• R ²
Georgia	Hazardous Waste Trust Fund	\$2.8M (9/91)	\$569K	P I
Kentucky	Hazardous Waste Management Fund	\$5M (10/91)	\$2M	c F i p R
Mississippi	Pollution Emergency Response Fund	\$200K (6/30/91)		A c g P r
North Carolina	• Inactive Hazardous Sites Cleanup Fund	• \$180K (10/91)	• Transfers from Emergency Response Fund (FY 89/90)	• A c f p
	• Emergency Response Fund	• \$500K (10/91)		• P
South Carolina	Hazardous Waste Contingency Fund	\$10M (7/91)	\$2M (est.)	a c F i p
Tennessee	Hazardous Remedial Action Fund	\$4.6M (6/91)	\$2.0M (FY92)	a c P ³ i p

- Codes:
- A,a Appropriations
 - B,b Bonds
 - C,c Cost recoveries
 - F,f Fees
 - G,g General public/private funds
 - I,i Interest on fund or other state investments
 - P,p Penalties or fines
 - R,r Transfers
 - T,t Taxes

Note: Capital letter indicates major source of funds (20%+).
Fund balances indicate unobligated funds unless otherwise noted.

TABLE V-7 (Cont'd)
FUNDING OF STATE CLEANUP ACTIVITIES

	Fund	Fund Balance (date)	Annual Additions	Source(s) of Funds
REGION V				
Illinois	Hazardous Waste Fund	\$7.7M (6/91)	\$2.5M	c F P
Indiana	Hazardous Substances Response Trust Fund	\$16.6M (9/91)		a c g i p T
Michigan	<ul style="list-style-type: none"> • Act 307 • Environmental Protection Bond Fund 	<ul style="list-style-type: none"> • \$10.7M (9/91) • (\$387.3M in remaining bonds authorized) (9/91) 	<ul style="list-style-type: none"> • Variable • Variable 	<ul style="list-style-type: none"> • a c P • B
Minnesota	Environmental Response Compensation and Compliance Fund	\$19.1M (8/91)	\$3.4M	A C i P t
Ohio	<ul style="list-style-type: none"> • Hazardous Waste Cleanup Fund • Hazardous Waste Facility Management Fund 	<ul style="list-style-type: none"> • \$13.4M (10/91) • \$21.2M (10/91) 	Approx. \$12M shared by both	<ul style="list-style-type: none"> • c F P • c F F
Wisconsin	Environmental Fund	<\$1M (6/91) (\$7.5M in bond funding (7/91))	more than \$4M (\$22M in bond funding for FY92)	A B c F i t

Codes: A,a Appropriations
 B,b Bonds
 C,c Cost recoveries
 F,f Fees
 G,g General public/private funds
 I,i Interest on fund or other state investments
 P,p Penalties or fines
 R,r Transfers
 T,t Taxes

Note: Capital letter indicates major source of funds (20%+).
 Fund balances indicate unobligated funds unless otherwise noted.

TABLE V-7 (Cont'd)

FUNDING OF STATE CLEANUP ACTIVITIES

Fund	Fund Balance (date)	Annual Additions	Source(s) of Funds
REGION VI			
Arkansas	<ul style="list-style-type: none"> • Hazardous Substance Remedial Action Trust Fund • \$3.2M (7/91) • Emergency Response Fund • \$46K (7/91) 	<ul style="list-style-type: none"> • \$600K 	<ul style="list-style-type: none"> • a c F g i P t⁴ • c i g P
Louisiana	Hazardous Waste Site Cleanup Fund	Variable	T
New Mexico	Hazardous Waste Emergency Fund	Variable (replenished as spent)	a B c p
Oklahoma	Controlled Industrial Waste Fund	Variable ⁵	a c F p r
Texas	<ul style="list-style-type: none"> • Hazardous Waste Disposal Fee Fund • \$29.5M (9/91) • Spill Response Fund • \$300K (9/91) 	<ul style="list-style-type: none"> • \$20M annually (beginning in 1992) • 0 	<ul style="list-style-type: none"> • c F i P • A C P
REGION VII			
Iowa	Hazardous Waste Remedial Fund	\$314K (7/91)	a c F ⁶ p r
Kansas	<ul style="list-style-type: none"> • Water Plan Special Revenue • Environmental Response Fund • Hazardous Waste Perpetual Care Trust Fund 	<ul style="list-style-type: none"> • \$1.9M (obligated) (9/91) • \$50K (11/91) • \$122K (11/91) 	<ul style="list-style-type: none"> • F • A c g • F
Missouri	Hazardous Waste Remedial Fund	\$5.3M (9/91)	a c F g i p T
Nebraska	None		

Codes: A,a Appropriations
 B,b Bonds
 C,c Cost recoveries
 F,f Fees
 G,g General public/private funds
 I,i Interest on fund or other state investments
 P,p Penalties or fines
 R,r Transfers
 T,t Taxes

Note: Capital letter indicates major source of funds (20%+).
 Fund balances indicate unobligated funds unless otherwise noted.

TABLE V-7 (Cont'd)

FUNDING OF STATE CLEANUP ACTIVITIES

Fund	Fund Balance (date)	Annual Additions	Source(s) of Funds
REGION VIII			
Colorado	Hazardous Substances Response Fund \$11M (8/91)		F i
Montana	<ul style="list-style-type: none"> • Environmental Quality Protection Fund • Hazardous Waste/CERCLA Special Revenue Account 	<ul style="list-style-type: none"> • \$250K (expected) • Unknown 	<ul style="list-style-type: none"> • a C P r • A B P
North Dakota	Environmental Quality Restoration Fund \$59K (10/91)	Variable	C
South Dakota	Regulated Substance Response Fund \$976K (9/91)	\$165K	C g i P
Utah	Hazardous Substances Mitigation Fund \$1.5M (9/91)	Variable	A c g i P r
Wyoming	Department of Environmental Quality Trust and Agency Account Fund \$1M (10/91)	Variable	P

- Codes:
- A,a Appropriations
 - B,b Bonds
 - C,c Cost recoveries
 - F,f Fees
 - G,g General public/private funds
 - I,i Interest on fund or other state investments
 - P,p Penalties or fines
 - R,r Transfers
 - T,t Taxes

Note: Capital letter indicates major source of funds (20%+).
Fund balances indicate unobligated funds unless otherwise noted.

TABLE V-7 (Cont'd)

FUNDING OF STATE CLEANUP ACTIVITIES

Fund	Fund Balance (date)	Annual Additions	Source(s) of Funds
REGION IX			
Arizona	Water Quality Assurance Revolving Fund	\$11.6M (6/91)	\$5M A c F i p T
California	• Hazardous Substance Account	• \$55M obligated (8/91), \$0 unobligated	• c f i p T
	• Hazardous Substance Cleanup Fund	• \$3M (8/91)	• B
Hawaii	Environmental Response Revolving Fund	\$120K (9/91)	A c i p
Nevada	Hazardous Waste Management Fund	\$3.0M (9/91)	\$1.1M c F p

Codes: A,a Appropriations
 B,b Bonds
 C,c Cost recoveries
 F,f Fees
 G,g General public/private funds
 L,i Interest on fund or other state investments
 P,p Penalties or fines
 R,r Transfers
 T,t Taxes

Note: Capital letter indicates major source of funds (20%+).
 Fund balances indicate unobligated funds unless otherwise noted.

TABLE V-7 (Cont'd)

FUNDING OF STATE CLEANUP ACTIVITIES

Fund	Fund Balance (date)	Annual Additions	Source(s) of Funds
REGION X			
Alaska	<ul style="list-style-type: none"> • Oil and Hazardous Substance Release Fund • \$27M (12/91) • Separate "Mitigation" Account • \$1.7M (FY 91) 	<ul style="list-style-type: none"> • Variable up to \$50M • Variable 	<ul style="list-style-type: none"> • A⁷ f g • A c P
Idaho	<ul style="list-style-type: none"> • Hazardous Waste Training, Emergency, and Monitoring Account • \$355K (6/91) • Hazardous Waste Emergency Account • \$169K (6/91) 	<ul style="list-style-type: none"> • \$1-1.25M • \$57K 	<ul style="list-style-type: none"> • A f • C P
Oregon	<ul style="list-style-type: none"> • Hazardous Substance Remedial Action Fund • \$3.9M (7/1/91) 	<ul style="list-style-type: none"> • \$3.8M (FY 1991) 	<ul style="list-style-type: none"> • a c i F P
Washington	<ul style="list-style-type: none"> • State Toxics Control Account • \$25.9M (7/91) • Local Toxics Control Account • \$43M (8/91) 	<ul style="list-style-type: none"> • \$13M • \$23.8M (biennially) 	<ul style="list-style-type: none"> • c i p T • T

1. The Underground Storage Tank Trust Fund has a balance of \$130K (9/91). Its main source is penalties, and fees are a minor source. (DC)
2. Federal funds received by State. (FL)
3. Appropriations set equal to fees. Estimated fees cannot exceed \$2M/yr. (TN)
4. From Emergency Response Fund if it exceeds \$150K. (AR)
5. Transfer funds if balance drops to \$20K to restore balance to \$100K. (OK)
6. Hazardous Waste Fees are suspended if fund balance surpassed \$6M; resume if balance falls below \$3M. (IA)
7. Appropriations from \$.05 per barrel tax on Alaska pipeline. (AK)

Codes: A,a Appropriations
 B,b Bonds
 C,c Cost recoveries
 F,f Fees
 G,g General public/private funds
 I,i Interest on fund or other state investments
 P,p Penalties or fines
 R,r Transfers
 T,t Taxes

Note: Capital letter indicates major source of funds (20%+).
 Fund balances indicate unobligated funds unless otherwise noted.

TABLE V-8
FUND EXPENDITURES
SUMMARY

- A total of \$427.7M was spent or encumbered from States' Funds (2 States not reporting)
- Amounts spent or encumbered by States are distributed as follows:
 - 23 States spent or encumbered less than \$1M
 - 11 States spent or encumbered between \$1M and \$5M
 - 5 States spent or encumbered between \$5M and \$10M
 - 10 States spent or encumbered between \$10M and \$50M
 - 1 State spent or encumbered greater than \$50M
 - 2 States provided no information
- The median amount spent or encumbered by States was \$1.2M.
- \$356.8M was spent or encumbered by the eleven States that spent or encumbered more than \$10M (83.4%)

TABLE V-8
FUND EXPENDITURES

	Amount Spent/Encumbered Last Year	Current Balance
REGION I		
Connecticut		
Emergency Spill Response Fund	\$0 (FY91)	\$4.9M (10/90)
\$2(e)(5) of Special Act	\$0 (FY91)	\$3M (11/91) in bonds
\$29 of Special Act	\$2.35M (s&e)	\$12.65M (10/91) in bonds
Maine		
Bond Account	\$2.4M(s) \$1.3M(e)	\$4.8M (8/91)
Uncontrolled Sites Fund	\$100K(s) \$1M(e)	\$2.3M (8/91)
Landfill Closure/Remediation Bond Account	\$5.1M(s) \$1.1M(e)	\$13M (8/91)
Solid Waste Fund	—	\$600K (8/91)
Massachusetts		
Massachusetts General Fund (Bond)	\$9.3M(s) (7/91)	\$37M (7/91)
Environmental Challenge Fund	\$9M(s) (7/91)	Zero (\$3.8M to be added in FY92)
New Hampshire		
Hazardous Waste Cleanup Fund	\$1.22M(s)/\$1.35M(e)	\$3.3M (7/91)
Bond Fund	(N/A)	<\$100K (7/91)
Rhode Island		
	N/A	\$800K (10/91)
Vermont		
Environmental Contingency Fund	\$315K(s) (FY91)	\$1M (8/91)
Petroleum Cleanup Fund	\$4M(s) (1/91-10/91)	\$3.1M (9/91)
REGION II		
New Jersey		
Spill Compensation Fund	\$37.7M (s&e)	\$94.4M (6/91)
Hazardous Discharge Site Cleanup Fund	\$11.2M (s&e)	\$115.7M (9/91)
Capital Fund	\$0	\$0 (6/91)
New York		
	\$20.2M (FY90/91)	\$3.5M (3/91) \$973M in bonds
Puerto Rico		
Environmental Response Fund	\$1.1M(s)	\$2.9M (6/91) *some of which is encumbered

TABLE V-8 (Cont'd)
FUND EXPENDITURES

	Amount Spent/Encumbered Last Year	Current Balance
REGION III		
Delaware		
Hazardous Substance Cleanup Fund	~200K(e)	\$2.5M (10/91)
District of Columbia	No Fund*	-----
Maryland		
Subaccount of Hazardous Substance Control Fund	\$1.2M(s) (6/91)	\$8.25M (11/91)
Pennsylvania		
Hazardous Sites Cleanup Fund	\$38M(s) (6/91)	\$21.8M (6/91)
Virginia		
Solid and Hazardous Waste Contingency Fund	\$111K(s)	\$73K (6/91)
West Virginia		
Hazardous Waste Emergency Response Fund	\$395K(s) (FY91)	\$1.28M (9/91)
REGION IV		
Alabama		
Alabama Hazardous Substance Cleanup Fund	\$10K(s)	\$147K (9/91)
Florida		
Water Quality Assurance Trust Fund	\$8.1M (s&e) (FY91)	\$13.5M (5/91)
Georgia		
Hazardous Waste Trust Fund	\$0	\$2.8M (9/91)
Kentucky		
Hazardous Waste Management Fund	\$100K(s) (6/91)	~\$5M
Mississippi		
Pollution Emergency Response Fund	\$211K(s)	\$200K (6/91)
North Carolina		
Inactive Hazardous Sites Cleanup Fund	\$165K(s) (10/91)	\$180K (10/91)
Emergency Response Fund	\$0	\$487K (10/91)
South Carolina		
Hazardous Waste Contingency Fund	\$1M(s) \$2.5M(e) (6/91)	\$5.5M obligated \$10M unobligated (7/91)
Tennessee		
Hazardous Remedial Action Fund	\$1.8M(s) (FY91)	\$4.6M (6/91)

* Currently the District is setting up an Underground Storage Tank Trust Fund for the 1991-92 fiscal year which will be funded by registration fees and penalties.

TABLE V-8 (Cont'd)
FUND EXPENDITURES

	Amount Spent/Encumbered Last Year	Current Balance
REGION V		
Illinois		
Hazardous Waste Fund	\$9.6M(s)	\$7.7M (6/91)
Indiana		
Hazardous Substances Response Trust Fund	\$1.8M(s) (7/89-9/91)	\$16.6M (9/91)
Michigan		
Act 307	\$10.7M (s&e)	\$10.7M (9/91)
Environmental Protection Bond Fund	\$19.2M(s)	\$387.3M in remaining bonds authorized (9/91)
Minnesota		
Environmental, Compensation and Compliance Fund	\$7M(s)	\$191.M (8/91)
Ohio		
Hazardous Waste Cleanup Fund	\$6.1M(s)	\$13.4M (10/91)
Hazardous Waste Facility Management Fund	\$1.6M(s)	\$21.2M (10/91)
Wisconsin		
Environmental Fund	\$4M(s&e) (6/30/91)	<\$1M (6/91) (\$7.5M in bond funding (7/91))
REGION VI		
Arkansas		
Hazardous Substance R.A.T.F. Emergency Response Fund	<\$1K(s) (7/91) \$155K(s) (7/91)	\$3.2M (7/91) \$46K (7/91)
Louisiana		
Hazardous Waste Site Cleanup Fund	\$1.2M(s) or (e) as of 11/91	\$2.2M (11/91)
New Mexico		
HW Emergency Fund	\$90K(s)/\$125K(e) (FY91)	\$191K (10/91)
Oklahoma		
Controlled Ind. Waste Fund	\$15K(s) (FY91)/\$8-10K(e)	\$60K (10/91)
Texas		
HW Disposal Fee Fund	\$31M(s)/\$10M(e)	\$29.5M (9/91)
Spill Respnse Fund		\$300K (9/91)

TABLE V-8 (Cont'd)
FUND EXPENDITURES

	Amount Spent/Encumbered Last Year	Current Balance
REGION VII		
Iowa		
Hazardous Waste Remedial Fund	\$95.7K (FY91) (7/91)	\$314K (7/91)
Kansas		
Water Plan Special Revenue	N/A	\$1.8M (9/91)
Environmental Response Fund	N/A	\$600K (9/91)
Hazardous Waste Perpetual Care Trust Fund	N/A	\$122K (9/91)
Missouri		
Hazardous Waste Remedial Fund	\$684K (FY91)	\$5.3M (9/91)
Nebraska	No Fund	
REGION VIII		
Colorado		
Hazardous Substances Response Fund	\$10M(s)(e)	\$11M (8/91)
Montana		
EQ Protection Fund	\$500K(s)/\$290K(e)	\$1M (5/91)
Hazardous Waste/CERCLA Special Revenue Account	N/A	No bonds issued yet
North Dakota		
Environmental Quality Restoration Fund	\$0	\$59K (10/91)
South Dakota		
Regulated Substances Response Fund	\$92K (FY91)	\$976K (9/91)
Utah		
Hazardous Substances Mitigation Fund	\$335K(s) (FY91)	\$1.5M (9/91)
Wyoming		
DEQ Trust and Agency Account Fund	\$150K(s) (FY91)	\$1M (10/91)
REGION IX		
Arizona		
Water Quality Assurance Revolving Fund	~\$3.5M (s&e) (FY91)	\$11.6M (6/91)
California		
Hazardous Substance Account	\$50M(e) (FY91)	\$55M obligated (8/91)
Hazardous Substance Cleanup Fund	\$7M(e) (FY91)	\$3M unobligated (8/91)
Hawaii		
Environmental Response Revolving Fund	\$117K(s) (6/91)	\$120K (9/91)
Nevada		
Hazardous Waste Management Fund	\$800K(s)	\$3M (9/91)

TABLE V-8 (Cont'd)
FUND EXPENDITURES

	Amount Spent/Encumbered Last Year	Current Balance
REGION X		
Alaska		
Oil & Hazardous Substance Release Fund	\$47M (s&e) (FY90)	\$27M (12/91)
Separate "Mitigation" Account	N/A	\$1.7M (FY91)
Idaho		
Hazardous Waste Training, Emergency and Monitoring Account	N/A	\$355K (6/91)
Hazardous Waste Emergency Account	\$8K(s)	\$169K (6/91)
Oregon		
Hazardous Substance Remediation Action Fund	\$6.5M (s&e)	\$3.9M (7/91)
Orphan Site Account	\$0 (FY90)	\$0
Washington		
State Toxics Control Account	\$21M (FY91)	\$25.9 (7/91)
Local Toxics Control Account	<\$14.6M (FY91)	\$25.2M

TABLE V-9
USES OF STATE CLEANUP FUNDS
SUMMARY

- States authorized to use Fund for:
 - Emergency Response (49 States)
 - Removals (47 States)
 - Remedial Action (47 States)
 - Studies (45 States)
 - CERCLA Match (44 States)
 - O&M (42 States)
 - Victim Compensation (13 States)

STATE PROGRAM DEVELOPMENTS

<i>Authorization for:</i>	1989	1990	1991
Emergency Response	46	48	49
Removals	42	46	47
Remedial Action	41	45	47
Studies	40	43	45
CERCLA Match	36	43	44
O&M	34	40	42
Victim Compensation	11	12	13

**TABLE V-9
USES OF STATE CLEANUP FUNDS**

Fund	Uses of Fund	Special Conditions on Fund Use
REGION I		
Connecticut	<ul style="list-style-type: none"> ● Emergency Spill Response Fund ● §2(e)(5) of Special Act 86-54 ● §29 of Special Act 87-77 	<ul style="list-style-type: none"> ● a c e i o r s v ● a c e i s r ● a c o r v <p>● CERCLA match limited to \$5M/site. ● Site must be listed on State Inventory; unacceptable threat to public health; no RPs or RPs in noncompliance with cleanup order.</p>
Maine	<ul style="list-style-type: none"> ● Bond Account ● Uncontrolled Sites Fund ● Solid Waste Fund ● Landfill Closure/Remediation Bond Account 	<ul style="list-style-type: none"> ● a c c i o r s ● a c c i o r s ● a c e i o r s ● a c e i o r s
Massachusetts	<ul style="list-style-type: none"> ● Massachusetts General Fund ● Environmental Challenge Fund 	<ul style="list-style-type: none"> ● a c c e i o r s ● a c e i o r s
New Hampshire	<ul style="list-style-type: none"> ● Hazardous Waste Cleanup Fund ● Bond Fund 	<ul style="list-style-type: none"> ● a c e r s ● c o <p>● Funds may now be expended regardless of qualification for CERCLA assistance. ● Expenditures must be approved by Governor.</p>
Rhode Island	<ul style="list-style-type: none"> ● Environmental Response Fund 	<ul style="list-style-type: none"> ● a c c e i o r s v
Vermont	<ul style="list-style-type: none"> ● Environmental Contingency Fund ● Petroleum Cleanup Fund 	<ul style="list-style-type: none"> ● a c e i r s v ● a c e i o r s v <p>● Expenditures exceeding \$50K for any category of activity require approval of General Assembly or its Joint Fiscal Committee. ● RPs must be given opportunity to conduct cleanup. ● PCF covers up to \$1 million in cleanup costs per site, with a \$10K deductible, and \$1 million per site in third party claims.</p>
REGION II		
New Jersey	<ul style="list-style-type: none"> ● Spill Compensation Fund ● Hazardous Discharge Site Cleanup Fund ● Capital Fund 	<ul style="list-style-type: none"> ● a c c e i o r s v ● a c c e i o r s ● a c c e o r s <p>● State has issued Spill Act directive.</p>
New York	<ul style="list-style-type: none"> ● Hazardous Waste Remedial Fund 	<ul style="list-style-type: none"> ● a c e g i o r s v ● other¹ <p>State must make reasonable effort to secure voluntary agreement to pay costs of remedial actions.</p>
Puerto Rico	<ul style="list-style-type: none"> ● Environmental Response Fund 	<ul style="list-style-type: none"> ● a c e r s
Codes:	<ul style="list-style-type: none"> a remedial actions c CERCLA match e emergency response g grants to municipalities, local governments i site investigation o operation and maintenance r removals s studies and design v victim compensation 	

NOTE: Special conditions do not apply to all funds in States with more than one fund. See text for discussion.

TABLE V-9 (Cont'd)

USES OF STATE CLEANUP FUNDS

Fund	Uses of Fund	Special Conditions on Fund Use
REGION III		
Delaware	Hazardous Substance Cleanup Fund	a c e i o r s other ² No more than 15% of Fund may be expended for administration of the Act without Joint Fiscal Committee approval.
District of Columbia	None	
Maryland	Subaccount of Hazardous Substance Control Fund	a c e i o r s v Authorization from Board of Public Works required prior to expenditure.
Pennsylvania	Hazardous Sites Cleanup Fund	a c e g o r s v other ³
Virginia	Solid and Hazardous Waste Contingency Fund	a c e i o r s
West Virginia	Hazardous Waste Emergency Response Fund	c e i o s <ul style="list-style-type: none"> • Funds may be used to address hazardous waste, not hazardous substances. • State must make "reasonable efforts" to secure agreements from owners and operators or other RPs to pay cleanup and remedial action costs. • Studies and design and other preparations for remedial actions disallowed unless the Fund balance exceeds \$1M and if the expenditure does not reduce the Fund below this amount.
Codes:	a remedial actions	
	c CERCLA match	
	e emergency response	
	g grants to municipalities, local governments	
	i site investigation	
	o operation and maintenance	
	r removals	
	s studies and design	
	v victim compensation	

NOTE: Special conditions do not apply to all funds in States with more than one fund. See text for discussion.

TABLE V-9 (Cont'd)

USES OF STATE CLEANUP FUNDS

Fund	Uses of Fund	Special Conditions on Fund Use
REGION IV		
Alabama	Hazardous Substance Cleanup Fund	<ul style="list-style-type: none"> • Sites must not be on NPL at time activity starts. • Fund monies may be spent only if no liable parties can be found within reasonable time or if imminent threat exists. • Fund may be used to provide state oversight of RP lead cleanup with eventual reimbursement.
Florida	<ul style="list-style-type: none"> • Water Quality Assurance Trust Fund • Hazardous Waste Management Trust Fund 	<ul style="list-style-type: none"> • Federal monies received by state.
Georgia	Hazardous Waste Trust Fund	
Kentucky	Hazardous Waste Management Fund	RPs not viable or unavailable and imminent danger to health and the environment.
Mississippi	Pollution Emergency Response Fund	Cleanups limited to those involving solid waste or contamination of air and waters of the State.
North Carolina	<ul style="list-style-type: none"> • Inactive Hazardous Sites Cleanup Fund • Emergency Response Fund 	<ul style="list-style-type: none"> • Secretary of Department of Environment, Health & Natural Resources determines no funds or action available from other sources. • DEHNR must approve RD/RA.
South Carolina	Hazardous Waste Contingency Fund	Exhaust available liability insurance and federal funds before using Fund; will use funds for site investigations to prioritize and score state sites.
Tennessee	Hazardous Remedial Action Fund	

Codes: a remedial actions
c CERCLA match
e emergency response
g grants to municipalities, local governments
i site investigation
o operation and maintenance
r removals
s studies and design
v victim compensation

NOTE: Special conditions do not apply to all funds in States with more than one fund. See text for discussion.

TABLE V-9 (Cont'd)

USES OF STATE CLEANUP FUNDS

Fund	Uses of Fund	Special Conditions on Fund Use
REGION V		
Illinois	Hazardous Waste Fund	a c e i o r s Site expenditures not to exceed \$1M without legislative appropriation.
Indiana	Hazardous Substances Response Trust Fund	a c e i o r s Fund expenditures must be authorized by the Commissioner.
Michigan	● Act 307	● a c ⁴ e i o r s ● Numerical risk assessment before expenditures on evaluation or response. Exceptions made where imminent threat to environment or public health.
	● Environmental Protection Bond Fund	● a c e g i o r s
Minnesota	Environmental Response Compensation and Compliance Fund	a c e g i o r s v ● Must seek RP or federal funds first. ● Expenditures must be approved by Pollution Control Board.
Ohio	● Hazardous Waste Cleanup Fund	● a c e i o r s ● Sites where hazardous waste treated, stored or disposed.
	● Hazardous Waste Facility Management Fund	● c e
Wisconsin	Environmental Fund	a c e i o r s other ⁶ If requested, administrative hearing and judicial review before expenditures on remedial action.

Codes: a remedial actions
c CERCLA match
e emergency response
g grants to municipalities, local governments
i site investigation
o operation and maintenance
r removals
s studies and design
v victim compensation

NOTE: Special conditions do not apply to all funds in States with more than one fund. See text for discussion.

TABLE V-9 (Cont'd)

USES OF STATE CLEANUP FUNDS

Fund	Uses of Fund	Special Conditions on Fund Use
REGION VI		
Arkansas	<ul style="list-style-type: none"> ● Hazardous Substance Remedial Action Trust Fund ● Emergency Response Fund 	<ul style="list-style-type: none"> ● Not available for actions "duplicative" of CERCLA and limited to sites on State Priority List. ● Commission on Pollution Control and Ecology must approve if expenditure exceeds \$30K.
Louisiana	Hazardous Waste Site Cleanup Fund	DEQ must make a demand on PRPs to recover expenses once cleanup work is completed.
New Mexico	Hazardous Waste Emergency Fund	
Oklahoma	Controlled Industrial Waste Fund	Site-specific appropriations required for expected costs greater than \$1M.
Texas	<ul style="list-style-type: none"> ● Hazardous Waste Disposal Fee Fund (Fund 550) ● Spill Response Fund 	<ul style="list-style-type: none"> ● Used when PRP, third party, or CERCLA funds are insufficient for remedial action. ● 1991 legislative authorized use of Fund 550 for emergencies, spill response and administrative costs. ● Limited to threatened or actual discharges to the waters or groundwaters of the states and cannot be used for administrative costs.

Codes: a remedial actions
c CERCLA match
e emergency response
g grants to municipalities, local governments
i site investigation
o operation and maintenance
r removals
s studies and design
v victim compensation

NOTE: Special conditions do not apply to all funds in States with more than one fund. See text for discussion.

TABLE V-9 (Cont'd)

USES OF STATE CLEANUP FUNDS

Fund	Uses of Fund	Special Conditions on Fund Use
REGION VII		
Iowa	Hazardous Waste Remedial Fund	a c e i o r s v 75% of Fund must be used for remediation at non-CERCLA sites and for CERCLA cost share.
Kansas	• Water Plan Special Revenue	• Generally, funds appropriated on a site-by-site basis.
	• Contamination Remediation Account	
	• Environmental Response Fund	
	• Hazardous Waste Perpetual Care Trust Fund	• Funds appropriated to ERF on site-by-site basis, except \$300K emergency response fund account.
Missouri	Hazardous Waste Remedial Fund	a c e i o r s All reasonable efforts to secure voluntary agreements from RPs.
Nebraska	None	

Codes: a remedial actions
c CERCLA match
e emergency response
g grants to municipalities, local governments
i site investigation
o operation and maintenance
r removals
s studies and design
v victim compensation

NOTE: Special conditions do not apply to all funds in States with more than one fund. See text for discussion.

TABLE V-9 (Cont'd)

USES OF STATE CLEANUP FUNDS

Fund	Uses of Fund	Special Conditions on Fund Use
REGION VIII		
Colorado	Hazardous Substances Response Fund	2.5% of funds may be used for administrative costs.
Montana	<ul style="list-style-type: none"> • Environmental Quality Protection Fund • Hazardous Waste/CERCLA Special Revenue Account 	<ul style="list-style-type: none"> • Release or threat of release and remedial action will not be properly conducted by PRPs, no PRPs, or PRPs refuse to clean up. • Emergency responses.
North Dakota	Environmental Quality Restoration Fund	
South Dakota	Regulated Substances Response Fund	<ul style="list-style-type: none"> • Determine that discharge occurred, RPs unwilling or unavailable to conduct corrective action.
Utah	Hazardous Substances Mitigation Fund	<ul style="list-style-type: none"> • Site must be on state hazardous substances priority list. • Funds may be used for investigation but not remediation.
Wyoming	Department of Environmental Quality Trust and Agency Account Fund	<ul style="list-style-type: none"> • Requires finding that use of fund is necessary and approval of Environmental Quality Council. • DEQ's TAA Fund also can be used for mine reclamation, closure of solid waste treatment, storage, or disposal facilities, and post-closure monitoring and maintenance, when bonds are inadequate of those facilities.

Codes: a remedial actions
c CERCLA match
e emergency response
g grants to municipalities, local governments
i site investigation
o operation and maintenance
r removals
s studies and design
v victim compensation

NOTE: Special conditions do not apply to all funds in States with more than one fund. See text for discussion.

TABLE V-9 (Cont'd)

USES OF STATE CLEANUP FUNDS

Fund	Uses of Fund	Special Conditions on Fund Use
REGION IX		
Arizona	Water Quality Assurance Revolving Fund	<ul style="list-style-type: none"> • Fund monies may be used in the event of a release or threat of a release to waters of the State. • Reasonable and necessary costs where RP not identified or fails to comply with cleanup order.
California	<ul style="list-style-type: none"> • Hazardous Substance Account • Hazardous Substance Cleanup Fund 	<ul style="list-style-type: none"> • Expenditures for removal or remedial action prohibited if significant portion of hazardous substances originated outside state. • RPs - given notice and opportunity to conduct removal or remediation - fail to comply. Consistent with NCP.
Hawaii	Environmental Response Revolving Fund	
Nevada	Hazardous Waste Management Fund	<ul style="list-style-type: none"> • For studies, Interim Finance Committee approval if not already budgeted. • First seek RP action, unless there is imminent hazard to health or environment.
REGION X		
Alaska	<ul style="list-style-type: none"> • Oil and Hazardous Substance Release Response Fund • Separate "Mitigation" Account 	
Idaho	<ul style="list-style-type: none"> • Hazardous Waste Training, Emergency, and Monitoring Account • Hazardous Waste Emergency Account 	<ul style="list-style-type: none"> • Fund is administrative.
Oregon	Hazardous Substance Remedial Action Fund	<ul style="list-style-type: none"> • Only 25% of Orphan Site Account, a subaccount of HSRAP, may be used at sites with "unwilling" RPs. Use requires showing imminent threat.
Washington	<ul style="list-style-type: none"> • State Toxics Control Account • Local Toxics Control Account 	<ul style="list-style-type: none"> • Appropriation by statute. • Appropriation by statute.
<ol style="list-style-type: none"> Bond debt service. (NY) Loans to nonprofits and small business RPs who settle. (DE) Private party cleanups, recycling grant program, demonstration grants, municipality loan program. (PA) CERCLA match monies from this fund are authorized, but site-specific appropriations have been the historical source of matching funds. (MI) Hazardous Substance Injury Compensation Fund, which is established under separate legislation, has never been used. (MN) LUST match. (WI) Remedial Action may be taken pursuant to a court action. (NM) Up to 20% of Hazardous Waste Perpetual Care Trust Fund may be used for emergency response at HW facilities closed before 1981 Hazardous Waste Act. (KS) Health studies, property acquisitions, and studies concerning hazardous waste facility development. (MO) Pursuant to the Hazardous Substance Victim's Compensation Fund, a separate account. (CA) Reimbursement of private remedial action or removal expenditures disbursed pursuant to an order on showing that party not liable, order was arbitrary and capricious, and costs incurred were reasonable. (OR) Assist local governments in paying for contaminated site cleanup, solid and hazardous waste planning, recycling, and waste reduction. (WA) 		

TABLE V-10

LIABILITY STANDARDS

SUMMARY

- 36 States have a strict liability standard. 14 States and the District of Columbia and Puerto Rico do not.

* * * * *

- 18 States have strict, joint and several liability.
- 8 additional States have strict, joint and several liability but provide provisions to prove apportionment.
- 6 States specify proportional liability.
- 3 States have joint and several liability, but not strict liability.
- 4 States have strict liability but do not prescribe either joint and several or proportional liability.
- 13 States have other liability standards or unspecified liability standards.

52 Total

TABLE V-10
LIABILITY STANDARDS

	Strict	Joint and Several	Proportional	Other	Not Specified
REGION I					
Connecticut	X	X			
Maine	X	X			
Massachusetts	X	X	X ¹		
New Hampshire	X	X			
Rhode Island	X ²	X			
Vermont	X	X	X ¹		
REGION II					
New Jersey	X	X			
New York					X ³
Puerto Rico					X
REGION III					
Delaware	X	X			
District of Columbia					X
Maryland	X		X ⁴		
Pennsylvania	X	X ⁵	X ⁶		
Virginia					X
West Virginia					X
REGION IV					
Alabama			X		
Florida	X	X			
Georgia					X
Kentucky				X ⁷	
Mississippi				X ⁸	
North Carolina		X			
South Carolina	X	X			
Tennessee	X		X		

TABLE V-10 (Cont'd)
LIABILITY STANDARDS

	Strict	Joint and Several	Proportional	Other	Not Specified
REGION V					
Illinois	X	X ¹			
Indiana	X	X			
Michigan	X	X			
Minnesota	X	X	X ⁹		
Ohio	X ¹⁰	X			
Wisconsin	X	X		X ¹¹	
REGION VI					
Arkansas	X	X	X ¹⁶		
Louisiana	X	X	X ^{1,4}		
New Mexico		X ¹²			
Oklahoma					X
Texas	X	X	X ¹		
REGION VII					
Iowa	X ¹³	X ¹⁰			
Kansas	X	X ¹⁰			
Missouri	X				
Nebraska	X				
REGION VIII					
Colorado					X
Montana	X	X	X ⁹		
North Dakota					X
South Dakota	X				
Utah	X		X		
Wyoming		X			

TABLE V-10 (Cont'd)
LIABILITY STANDARDS

	Strict	Joint and Several	Proportional	Other	Not Specified
REGION IX					
Arizona	X	X	X ¹		
California	X		X ^{1,9}		
Hawaii	X	X			
Nevada	X ¹⁵				
REGION X					
Alaska	X	X			
Idaho					X
Oregon	X ¹⁴	X			
Washington	X	X			

1. Where liable party establishes by a preponderance of evidence that he or she is only liable for a portion, then liability is "divisible." (MA, VT, IL, TX, LA, AZ, CA)
2. "Absolutely" liable - interpreted as strict, joint, and several by agency. (RI)
3. Determined by Commission, any statutory or common law defense available. (NY)
4. Where there is reasonable basis for determining contribution. (MD, LA)
5. Legislative history indicates joint and several liability. (PA)
6. At multi-party sites, State is required to prepare NBARs and parties may "cashout" with proportional share plus premium. (PA)
7. "Any person responsible for a release or threatened release of a hazardous substance." (KY)
8. "Any person creating, or responsible for creating, an immediate necessity for remedial or clean-up action." (MS)
9. Court apportionment. (MN, MT, CA)
10. No liability standard specified in Statute - State has argued for strict, joint and several liability. (OH, IA, KS)
11. Primary cleanup statute leaves liability up to common law standards. (WI)
12. "Persons responsible for hazardous waste cleanup" - interpreted as joint and several. (NM)
13. Limited strict liability - \$5M for transporters, \$50M for facilities. (IA)
14. Generators and transporters are not strictly liable; State also asserts joint and several. (OR)
15. Liability is strict for those in possession of hazardous material involved in spill. (NV)
16. Strict, joint and several liability applies at the administrative stage, but proportional liability is used for cost recovery or contribution actions filed in court. (AR)

TABLE V-11

**PENALTIES AND DAMAGES AVAILABLE
IN STATE "SUPERFUND" STATUTE**

SUMMARY

- 24 States have punitive damages provisions.
 - 19 States have punitive damages provisions for treble the State's cost.
 - 2 States have punitive damages provisions for double the State's cost.
 - 2 States have punitive damages provisions for one and one-half times the State's cost.
 - 1 State does not limit the amount for punitive damages.
- 45 States and Puerto Rico have civil penalty provisions.
 - Most States have civil penalties of up to \$10K/day (18 States) or \$25K/day (16 States).
 - 3 States have civil penalties of up to \$50K/day.

STATE PROGRAM DEVELOPMENTS

	1989	1990	1991
Punitive Damages Provisions	22	23	24
Civil Penalty Provisions	45	45	46

TABLE V-11
PENALTIES AND DAMAGES AVAILABLE
IN STATE "SUPERFUND" STATUTE

	Punitive Damages	Civil Penalties
REGION I		
Connecticut	1 1/2 times (negligence)	Up to \$25,000/day
Maine	AG may seek (no limit)	
Massachusetts	Treble costs	Up to \$25,000/violation
New Hampshire		
Rhode Island	Treble	Up to \$10,000/day or administrative penalties
Vermont	Treble	Up to \$50,000/day
REGION II		
New Jersey	Treble	Up to \$50,000/day (\$10M/day max. for catastrophic discharges $\geq 100,000$ gallons)
New York		Up to \$25,000/violation plus \$25,000/day (Doubles for second violation)
Puerto Rico		Up to \$25,000/day
REGION III		
Delaware	Treble	Up to \$10,000/day
District of Columbia		
Maryland		Up to \$25,000 for each violation, not exceeding 100,000 total. Each day a violation occurs is a separate violation.
Pennsylvania	Treble	Up to \$25,000/day (min - \$5,000/day).
Virginia		Up to \$25,000/day
West Virginia		Penalty for not paying fee
REGION IV		
Alabama		\$100-25,000 (\$250,000 max.)
Florida		Up to \$25,000/day
Georgia		Up to \$25,000/day
Kentucky		\$1,000/day
Mississippi		Up to \$25,000/day
North Carolina		\$10,000/day for violation involving hazardous waste (Public Health Law)
South Carolina	Treble	Up to \$25,000/day with stipulated penalties of \$1,000/day
Tennessee	1 1/2 times	Up to \$10,000/day

TABLE V-11 (Cont'd)
PENALTIES AND DAMAGES AVAILABLE
IN STATE "SUPERFUND" STATUTE

	Punitive Damages	Civil Penalties
REGION V		
Illinois	Treble	\$10,000 for violation and \$1,000/day
Indiana	Treble	\$25,000/day and \$500/hour of violation of emergency order, under revision
Michigan	Treble	\$25,000/day
Minnesota		\$20,000/day or \$100,000 for disturbing closed RCRA facility
Ohio		Up to \$10,000/day
Wisconsin		\$10 to \$5,000/day
REGION VI		
Arkansas	Treble	Up to \$25,000/day
Louisiana	Treble PRP's share of costs	Up to \$50,000/day
New Mexico		\$5,000/day or \$10,000/day
Oklahoma		Up to \$10,000/day
Texas	Double	Up to \$10,000/day
REGION VII		
Iowa	Treble	Up to \$1,000/day for failure to notify; up to \$10,000/day for air and water violations
Kansas		
Missouri	Treble	Up to \$10,000/day
Nebraska		Judicial only

TABLE V-11 (Cont'd)
PENALTIES AND DAMAGES AVAILABLE
IN STATE "SUPERFUND" STATUTE

	Punitive Damages	Civil Penalties
REGION VIII		
Colorado		
Montana	Double	Up to \$1,000 administrative penalties or \$10,000 per day for violation of order
North Dakota		Up to \$5,000, \$10,000 or \$25,000 per day for violation of order, violation of permit, regulation, or standards, or violation of statute, permit, or orders.
South Dakota		Up to \$10,000/day
Utah		Up to \$10,000/day
Wyoming		Up to \$10,000/day for violations of Environmental Quality Act
REGION IX		
Arizona	Treble	Civil penalty not to exceed \$10,000
California	Treble	Up to \$25,000/day
Hawaii	Treble	Up to \$25,000/day
Nevada		Up to \$10,000/day
REGION X		
Alaska		\$500-100,000 + \$10,000/day
Idaho		Up to \$10,000/day
Oregon	Treble	\$10,000/day
Washington	Treble	Up to \$25,000/day

TABLE V-12
NATURAL RESOURCES DAMAGE ASSESSMENT
SUMMARY

- 16 States report some activity to assess and/or recover for damages to natural resources.
- 36 States report no activity.
- Policy under development or in place in 9 States.

TABLE V-12

NATURAL RESOURCE DAMAGE ASSESSMENT TABLE

REGION I	
Connecticut	No activity.
Maine	One natural resource damage assessment (NRDA) being prepared. Bond Account and UCS Fund are both available to prepare NRDA and to pay for restoration work. Money has been recovered from PRPs through penalties in settlement agreements.
Massachusetts	Massachusetts General Fund and the Environmental Challenge Fund can both be used for NRDA's, which are based on lost use and/or restoration costs. MGF has been used to assess 2 NPL sites but has not yet been used to remediate NRD (as of 10/91).
New Hampshire	No activity.
Rhode Island	No activity.
Vermont	No activity. May be possible to use the state fund to pay for restoration costs.
REGION II	
New Jersey	All three funds can be used to prepare NRDA's. State follows DOI criteria. Less than \$500K has been spent to date on NRDA's.
New York	DEC has referred natural resource damage claims to the A.G.; some actions have been filed. A natural resource damage enforcement guidance memorandum was issued 5/17/89. Various types of evaluation are used.
Puerto Rico	No activity. (Natural Resources Department is trustee.)
REGION III	
Delaware	State can use money from the Hazardous Substance Cleanup Fund to prepare NRDA's, and is currently defining the criteria. State has the authority to restore natural resources, and can recover the costs from a PRP. Thus far, none of the Fund has been obligated to pay for NRDA's.
District of Columbia	No activity.
Maryland	No activity.
Pennsylvania	As of 11/91, the state was preparing their first NRDA, basing it on both lost use value and restoration. It is expected that this work will be completed over the next two years. The Hazardous Sites Cleanup Fund can also pay for natural resource damage restoration, and the cost can be recovered from a PRP.
Virginia	State has recovered restoration costs in one settlement.
West Virginia	No activity.

TABLE V-12 (Cont'd)

NATURAL RESOURCE DAMAGE ASSESSMENT TABLE

REGION IV	
Alabama	The Hazardous Substance Cleanup Fund can be used for NRDA's and restoration. None conducted to date.
Florida	No activity.
Georgia	No activity.
Kentucky	No activity.
Mississippi	No activity.
North Carolina	No activity.
South Carolina	No activity.
Tennessee	No activity.
REGION V	
Illinois	No activity.
Indiana	No activity.
Michigan	Act 307 and other statutes authorize NRDA's and the collection of money. Act 307 has \$50M cap on NRDA's unless PRP engages in gross negligence, in which case there is no cap. State follows DOI guidelines and uses both lost use value and cost recovery. State has contractors approved and on board and currently pursuing a few cases.
Minnesota	Environmental Response Compensation and Compliance Fund can be used to prepare NRDA's and to pay for restoration; State has full cost recovery from RPs.
Ohio	Both funds can be used for NRDA's. State is developing a program which will follow DOI guidelines. State has obtained NRDA damages in some settlements with RPs.
Wisconsin	No activity.
REGION VI	
Arkansas	No activity.
Louisiana	No activity. Currently working with NOAA to determine how to calculate the value or cost.
New Mexico	No activity. Hazardous Waste Emergency Fund money can be used to prepare an NRDA if site is located on state or public lands. HWEF money can also be paid out for restoration work and later recovered from PRP.
Oklahoma	No activity. Control Industrial Waste Fund can be used to prepare NRDA based on lost use or restoration costs. State fund money can also be used to pay for restoration work, and costs can be recovered from PRPs.
Texas	No activity. Fund 550 can be used to prepare NRDA and to pay for restoration costs, but is limited to recovering value of lost use. As trustee for natural resources, the state can get PRP to pay for restoration.

TABLE V-12 (Cont'd)

NATURAL RESOURCE DAMAGE ASSESSMENT TABLE

REGION VII	
Iowa	No activity.
Kansas	Administered by the Department of Wildlife and Parks and Bureau of Water Quality, primary for spills. Replacement costs billed directly to spiller.
Missouri	Natural resources damages under water pollution and other laws, claims include opportunity costs.
Nebraska	No activity.
REGION VIII	
Colorado	Substantial activity using CERCLA. Major NRD recoveries. Hazardous Substances Response Fund can be used to prepare NRDA's and to pay for restoration work. Money can be recovered later from PRP. Assessments based on both lost-use value and restoration costs, as well as other types of valuation.
Montana	Environmental Quality Protection Fund money can be used to prepare NRDA's based on lost use value, restoration costs and a past, present and future ratio comparing market value to non-use value. Can recover damages to resources from a PRP but not cost of performing assessment. <u>State of Montana v. ARCO (1983)</u> - Montana sued ARCO for natural resource damage at the Butte Copper Mining area in Clark Fork River Basin. State legislature appropriated \$5M from the State Special Fund to cover costs of continuing the suit through 1993, with an additional \$250K as an emergency fund source in 1991.
North Dakota	No activity.
South Dakota	No activity.
Utah	No activity. Hazardous Substances Mitigation Fund money cannot be used for NRDA. NRDA funds have been obtained in a separate appropriation. Assessments are based on combination of cost of restoration and market value replacement. Costs are recoverable through settlement agreement.
Wyoming	No activity.
REGION IX	
Arizona	State can use Water Quality Assurance Revolving Fund for preparing NRDA's, and is presently formulating criteria.
California	No activity.
Hawaii	State has the authority to use the Environmental Response Revolving Fund to prepare NRDA's and restore natural resources.
Nevada	No activity, although site assessments will look at natural resource damages. State has the authority to restore natural resources, as well as to recover the cost from a PRP.

TABLE V-12 (Cont'd)

NATURAL RESOURCE DAMAGE ASSESSMENT TABLE

REGION X

Alaska	State has recovered natural resources damages, few assessments have been performed. A process for assessment is under development.
Idaho	No activity.
Oregon	No activity.
Washington	Doing natural resource damage assessments of NPL sites funded out of state fund. Statute includes natural resource damages.

TABLE V-13
STATE CLEANUP POLICIES AND CRITERIA
SUMMARY

States reported that their cleanup policies and criteria include one or more of the following:

- 7 States have promulgated separate hazardous waste remedial standards.
- 36 States reference MCLs.
- 42 States reference water quality criteria.
- 37 States reference EPA Guidelines.
- 24 States reference background quality.
- 38 States reference risk levels or conduct a risk assessment.

STATE PROGRAM DEVELOPMENTS

	1990	1991
Hazardous Waste Remedial Standards	5	7
MCLs	28	36
EPA Guidelines	30	37
Water Quality Criteria	33	42
Background	20	24
Risk Assessment	32	38

TABLE V-13
STATE CLEANUP POLICIES AND CRITERIA

Promulgated Hazardous Waste Remedial Standards	MCLs	Water Quality Criteria	EPA Guide-lines	Cleanup to Background	Risk Standard/ Assessment	Comments
REGION I						
Connecticut	X	X			X	Hazardous waste cleanup standards due 7/92.
Maine	X			X	X	Toxicity levels and risk range of 10^{-6} to 10^{-7} for carcinogens; background level cleanup required for groundwater contamination at urban sites.
Massachusetts	X	X			X	Permanent solutions whenever feasible; feasible includes both technical and economic practicability. If no applicable standards exist, DEP generates site-specific health-based standards including risk assessment. Voluntary cleanups need DEP approval at 6 stages; DEP refuses to approve them if PRP does not plan to cleanup to required standards. Non-priority sites can apply for waiver of the six DEP approvals.
New Hampshire		X	X			Meet or exceed Federal standards; State ARARs are as stringent as, or more stringent than, federal standards.
Rhode Island					X	
Vermont	X	X	X		X	Groundwater standards may trigger remedial action. State is developing soil standards. Vermont's cleanup standards are established on a site-specific basis, and risk assessments use a risk range of 10^{-6} for carcinogens.
REGION II						
New Jersey	X		X	X	X	Soil standards under development. 10^{-6} goal pursued for carcinogens.
New York	X	X			X	A standard technical methodology has been proposed by task force.
Puerto Rico	X	X	X	X	X	Only use risk assessment when EPA lead.

TABLE V-13 (Cont'd)
STATE CLEANUP POLICIES AND CRITERIA

	Promulgated Hazardous Waste Remedial Standards	MCLs	Water Quality Criteria	EPA Guide- lines	Cleanup to Background	Risk Standard/ Assessment	Comments
REGION III							
Delaware		X	X	X		X	Hazardous waste remedial standards expected final by February 1992.
District of Columbia	X		X	X			Standard for petroleum of 100ppm.
Maryland		X	X	X	X	X	Hazardous waste remedial standards under development.
Pennsylvania			X	X - SARA §121	X		Statute provides that SARA §121 applies.
Virginia		X	X			X	Risk factor of 10^{-5} or 10^{-6} for carcinogens; ambient air quality monitoring.
West Virginia							In the process of being developed.

TABLE V-13 (Cont'd)
STATE CLEANUP POLICIES AND CRITERIA

Promulgated Hazardous Waste Remedial Standards	MCLs	Water Quality Criteria	EPA Guidelines	Cleanup to Background	Risk Standard/Assessment	Comments
REGION IV						
Alabama	X	X			X	Risk assessments on site-by-site basis. Statutory guideline: "protect human health and the environment."
Florida		X		X	X	Site-specific based on risk assessment and any existing standards. Cleanup to state water standard or ambient quality.
Georgia		X	X	X		Cleanup to background or drinking water standards for groundwater.
Kentucky		X	X	X	X	In practice, site-by-site standard, in consultation with Air and Water Divisions based partly on risk assessment, and consideration of EPA guidelines. For carcinogens, cancer risk should be less than one in a million. For non-carcinogens there should be no long-term detrimental effect.
Mississippi	X	X	X	X	X	Reference background, detection limit, published standards, generic risk.
North Carolina		X	X		X	Process includes reference to EPA guidelines, health-based risk assessment and groundwater regulations. For carcinogens cancer risk should be less than one in a million. Any chemical intake exceeding amount known to cause non-carcinogenic health effects is unacceptable.
South Carolina	X	X	X	X		Consistent with NCP. Use MCLs for groundwater, background for soil.
Tennessee	X	X	X	X	X	To extent practicable, remedies consistent with NCP. State-level ARARs, protection of human health and environment and cost-effectiveness.

TABLE V-13 (Cont'd)
STATE CLEANUP POLICIES AND CRITERIA

	Promulgated Hazardous Waste Remedial Standards	MCLs	Water Quality Criteria	EPA Guide- lines	Cleanup to Background	Risk Standard/ Assessment	Comments
REGION V							
Illinois		X	X	X	X	X	Cleanup objectives selected on site-by-site basis.
Indiana		X	X	X	X	X	Consistent with NCP. Indiana Interim Groundwater Standards require MCLs where aquifer is/may be source of public drinking water. Surface water and sediment cleanup levels based on Indiana's Water Quality Criteria. Risk assessment is essential.
Michigan	X				X	X	Three-tiered cleanup standards: Type A - to background; Type B - risk-based; Type C - low priority, less stringent than Type B.
Minnesota		X	X	X	X	X	Health-based limits on many chemicals; ARARS. In the absence of applicable standards, a cancer risk standard of 10^{-5} is used. A non-degradation policy applies to cleaner sites. Groundwater cleanup levels are set. Soil cleanup levels are expected to be finalized late '91.
Ohio		X	X	X	X	X	Standard consistent with NCP. 10^{-6} risk for carcinogens and less than one noncarcinogen case.
Wisconsin	X		X				Department guidelines for soil contamination currently being promulgated.

TABLE V-13 (Cont'd)
STATE CLEANUP POLICIES AND CRITERIA

Promulgated Hazardous Waste Remedial Standards	MCLs	Water Quality Criteria	EPA Guide- lines	Cleanup to Background	Risk Standard/ Assessment	Comments
REGION VI						
Arkansas	X	X - Air and Water Regula- tions	X	X	X	10 ⁻⁶ for carcinogens.
Louisiana			X			Cost-effectiveness; exposure level that poses no significant threat to public health or environment. Aims for permanent remedies to protect the community and environment.
New Mexico	X	X	X		X	All cleanup actions are conducted under CERCLA and must satisfy groundwater protection standards in the regulations of New Mexico's Water Quality Control Commission.
Oklahoma		X			X	Site-by-site determination. Risk assessments are contaminant specific, usually in range of 10 ⁻⁵ to 10 ⁻⁶ .
Texas	X				X	Lowest cost alternative that is technically feasible and reliable and which effectively mitigates and minimizes damage to and provides adequate protection of public health and safety or the environment. Proposed risk range of 10 ⁻⁴ to 10 ⁻⁶ for carcinogens.
REGION VII						
Iowa	X	X	X		X	Regulations provide cleanup goals for groundwater.
Kansas	X	X	X	X	X	Use Kansas Action Levels, for groundwater; otherwise use background.
Missouri	X	X	X		X	Uses Department of Health and other toxicological information. Title 118 sets standards for groundwater cleanup MCLs/MCLGs and other toxicological information also used.
Nebraska	X	X				

TABLE V-13 (Cont'd)
STATE CLEANUP POLICIES AND CRITERIA

Promulgated Hazardous Waste Remedial Standards	MCLs	Water Quality Criteria	EPA Guidelines	Cleanup to Background	Risk Standard/Assessment	Comments
REGION VIII						
Colorado	X	X	X	X	X	<ul style="list-style-type: none"> Colorado relies on EPA's standards and guidelines and parallels the federal process by using promulgated standards, supplemented by risk derived levels, water quality criteria, and EPA guidelines enforced under CERCLA and the NCP. Their cleanup goal is 10^{-6} with an acceptable range between 10^{-4} - 10^{-6}.
Montana	X	X	X		X	<ul style="list-style-type: none"> May also impose site-specific cleanup criteria and is initiating a program to develop generic soil cleanup standards.
North Dakota	X	X	X	X	X	<ul style="list-style-type: none"> Criteria selected on site-by-site basis. Narrative, not numerical, risk levels.
South Dakota	X	X	X			<ul style="list-style-type: none"> Soil criteria for petroleum and agricultural products.
Utah	X	X	X		X	<ul style="list-style-type: none"> Follows NCP procedures, meets CERCLA, uses MCLs if applicable. Adopted cleanup standard rule in the Utah Administrative Code.
Wyoming		X	X	X		<ul style="list-style-type: none"> Cleanups are site-specific with criteria based on protection of groundwater as required by Wyoming Water Quality Division's rules.
REGION IX						
Arizona	X	X	X		X	<ul style="list-style-type: none"> "Assure protection of public health, welfare, and the environment, be cost-effective over period of potential exposure, assure maximum beneficial uses of waters of state." MCLs or State standard of 10^{-6} risk of cancer.
California	X	X	X		X	<ul style="list-style-type: none"> Remedial Action Plans based on, among other things, the effect of contamination on beneficial uses of resources, the effect of action on groundwater, site-specific characteristics and cost-effectiveness. At least as stringent as CERCLA and NCP. Generally 10^{-6} cancer risk.
Hawaii	X	X	X	X	X	<ul style="list-style-type: none"> In process of developing state administrative rules and risk management criteria.
Nevada	X	X	X			<ul style="list-style-type: none"> Site-by-site groundwater standards.

TABLE V-13 (Cont'd)

STATE CLEANUP POLICIES AND CRITERIA

	Promulgated Hazardous Waste Remedial Standards	MCLs	Water Quality Criteria	EPA Guide- lines	Cleanup to Background	Risk Standard/ Assessment	Comments
REGION X							
Alaska	X	X	X	X		X	Promulgated Hazardous Waste Remedial Standards apply to petroleum spills.
Idaho				X			
Oregon					X		If cleanup to background infeasible, action selected that attains lowest concentration level that satisfies certain feasibility criteria, including cost-effectiveness. Numeric soil cleanup standards due in December 1991.
Washington	X	X	X	X	X	X	Statute requires at least as stringent as all applicable State and Federal laws.

TABLE V-14

STATE PUBLIC PARTICIPATION PROCEDURES

SUMMARY

- 43 States have public participation procedures; 22 of these States have statutory or regulatory public participation requirements.
- 4 States are developing a policy for public participation.
- 18 States have public notice requirements.
- 18 States solicit public comments.
- 27 States hold or may hold public meetings or hearings.
- 6 States follow NCP public participation guidelines.

TABLE V-14

STATE PUBLIC PARTICIPATION PROCEDURES

State	Statutory/Regulatory Requirements	Policy/Ad hoc Practices
REGION I		
Connecticut		Public meetings held at various stages of investigation and cleanup at State-funded sites.
Maine		Records are open to public inspection under Maine's FOIA. DEP policy is to keep local officials and residents informed.
Massachusetts	DEP or PRP Must publish legal notice of results of site investigation within 30 days of completion and notice of local residents' rights regarding site disposition. Must hold public meeting upon petition of 10 or more local residents and present plan for community involvement regarding response actions. May develop such a plan and hold public meetings even in the absence of a petition. May provide technical assistance grants. Must permit public site inspections by community representatives.	Petitions for public involvement in the assessment and cleanup process have been filed for 69 sites as of 7/91.
New Hampshire		DES has informal contacts with local government officials and local citizens.
Rhode Island		May hold public hearing in enforcement actions.
Vermont	Statutory requirement to notify municipalities of sites within their borders; site designation must be entered on deed register.	Holds public meetings and conducts public informational meetings upon request.
REGION II		
New Jersey	Public meeting prior to adopting ROD.	Public meetings prior to RI/FS, upon completion of RI/FS, upon completion of RD, at beginning of RA, at conclusion of RA.
New York	Public notice and brief analysis of remedial plan; 30-day comment period; public meeting; document repository; mass mailings.	State Superfund Management Board, which oversees remedial program, includes environmental group and citizen representatives. DEC has 10 full-time citizen-participation staff.
Puerto Rico		Public meetings are only conducted for Superfund sites or for EPA lead emergency removal sites.

TABLE V-14 (Cont'd)

STATE PUBLIC PARTICIPATION PROCEDURES

State	Statutory/Regulatory Requirements	Policy/Ad hoc Practices
REGION III		
Delaware	Public hearings must be held on proposed settlement agreements and proposed remedial action plans.	
District of Columbia		Notice designed to reach persons directly affected.
Maryland		Community Relations Coordinator or the site project manager disseminates information and arranges public meetings.
Pennsylvania	Allow for comment and at least one public hearing on administrative record for remedial action. Respond to all significant comments.	
Virginia		Community relations plan being drafted.
West Virginia		May hold public meetings.
REGION IV		
Alabama	30-day comment period on Cleanup Plan after notice is published in newspaper. Hearings required prior to listing AO unless imminent threat to human health.	
Florida		May hold public meetings.
Georgia		
Kentucky		May hold public meetings.
Mississippi		Policy requires public comment period and direct mailings to interested parties.
North Carolina	Notice and summary of RA plan published weekly for 3 weeks; 45-day comment period for State-funded cleanups.	Public meeting at discretion of Secretary.
South Carolina		
Tennessee	Rulemaking hearings (with required public participation) must be held prior to site(s) being added and/or deleted from State list.	Adhere to NCP requirements. Public meeting at end of RI/FS and for input into the development of ROD.

TABLE V-14 (Cont'd)

STATE PUBLIC PARTICIPATION PROCEDURES

State	Statutory/Regulatory Requirements	Policy/Ad hoc Practices
REGION V		
Illinois		Community relations coordinators assigned to most sites.
Indiana	The public's only opportunity to participate occurs if permit required for cleanup.	30-day comment period for final remediation decisions of NPL sites. Public meetings occur several times during the investigation and are increasingly supplemented with availability sessions in the communities.
Michigan	Citizen information; Annual public hearing when site list is updated Rules require opportunity for public review, comment, and public meeting in some cases, during FS or remedy selection.	Public comment allowed at de-listing (until 2/90). Prior to listing a site DNR must notify PRP, municipal government, and local health department.
Minnesota	Public notice and comments for proposed site listing and for other stages in site handling. Public meeting and comments on remedial action. Public meeting and comments on remedial plan.	Public relations officer is assigned to each site. Public meeting at completion of RI/FS to explain proposed plan. Public meeting at completion of RI/FS to explain proposed plan. Policy under revision.
Ohio		Open Records Law provides public access to State records.
Wisconsin	Public notice of site list. 30-day comment period. Public hearing regarding site list if requested by any person. Public notice of any proposed remedial action except in emergency. Public hearing if requested within 30 days.	

TABLE V-14 (Cont'd)
STATE PUBLIC PARTICIPATION PROCEDURES

State	Statutory/Regulatory Requirements	Policy/Ad hoc Practices
REGION VI		
Arkansas	Transcripts of public hearings and comments received on the site listing become part of the administrative record.	A public hearing is held prior to decisions to add or delete a site from the State priority list. Public meetings and/or fact sheets are provided prior to major milestones or cleanup projects.
Louisiana	DEQ must provide opportunity for a public comment period for closure plans when DEQ proposes to treat, store, or dispose of hazardous wastes at abandoned sites.	Community relations program at complex sites that include regular public meetings. Prior to concluding settlement agreements, DEQ holds public meeting and makes copies of agreements available to public.
New Mexico		Settlement agreement process includes public input.
Oklahoma		No formal requirement or information provisions.
Texas	Public notice and comment for listing site on Texas Superfund Registry. Public meetings required on proposal for Registry and prior to remedy selection.	
REGION VII		
Iowa		Drafting contingency plan to formalize requirements. State generally follows NCP public participation provisions.
Kansas		Public meetings.
Missouri	Provide a copy of the Annual Report on State hazardous waste sites to the Governor, General Assembly, Missouri Hazardous Waste Commission, and the County Commissioner's with hazardous waste sites.	
Nebraska	Public notice of remedial action plan; 30-day comment period during which a hearing may be requested.	

TABLE V-14 (Cont'd)

STATE PUBLIC PARTICIPATION PROCEDURES

State	Statutory/Regulatory Requirements	Policy/Ad hoc Practices
REGION VIII		
Colorado		Follows NCP public participation requirements, but in addition forms local advisory groups to meet with the Department of Health bi-monthly.
Montana	<ul style="list-style-type: none"> • Public notice for administrative orders and consent decrees. • Section 713 — New requirement for notice to county commissioners and local governing bodies and allows for public meeting at their request. 	Public involvement encouraged early. Committees at select sites allow public participation in risk assessment design.
North Dakota		Local officials provided with site information.
South Dakota		
Utah		Utah follows NCP's public participation requirements and, on site-specific basis, DEQ involves the public in cleanup process. Strong public participation by the PRPs and on a site-specific basis.
Wyoming		Public participation is informal and includes opportunity to review documents and comment on rulemakings and permitting decisions. Citizen commissions at two NPL sites, Mystery Bridge and F.E. Warren Air Force Base.
REGION IX		
Arizona	Regulations provide for citizen participation with regard to site listing, and remedial action plans where interest is shown.	Citizens are informed of state activities at hazardous waste sites via newspaper and public meetings. All comments are considered.
California	Must hold at least one public meeting on remedial action plan and consider any comments. Anyone affected by a removal/remedial action must have an opportunity to participate in decisionmaking.	Schedule of activities for site must be made available.
Hawaii	In process of developing rules.	
Nevada		As appropriate, on a case-by-case basis.

TABLE V-14 (Cont'd)

STATE PUBLIC PARTICIPATION PROCEDURES

State	Statutory/Regulatory Requirements	Policy/Ad hoc Practices
REGION X		
Alaska		Citizen advisory panels are formed for major cleanups. NCP public participation guidelines are followed.
Idaho		Community relations program at one NPL site
Oregon	Notify the media of program for identifying releases. Public notice and copies of proposed remedial actions; 30 day comment period; public meeting if requested by at least 10 people. Public notice and copies of final RA. Public notice regarding proposed settlement agreements.	
Washington	Establish regional citizens' advisory committees. Public notice of investigative or remedial plans, compliance and enforcement orders, notices of violation, agreed orders and consent decrees. Public participation grants to individuals and non-profit public interest groups.	

TABLE V-15

PROPERTY TRANSFER PROVISIONS

SUMMARY

- 10 States require the seller to disclose information about hazardous materials on the property before transfer.
- 5 States have authority to place priority liens on property that has been cleaned up with State funds.
- 2 States require cleanup before transfer of property.

TABLE V-15

PROPERTY TRANSFER PROVISIONS

State	No Law	Super Lien	Record on Deed	Disclose before transfer	Examine before transfer	Cleanup before transfer	Data Base	Notes
REGION I								
Connecticut		X		X		X	X	Transferor must certify that site is properly managed or wastes are being cleaned up.
Maine								
Massachusetts		X						
New Hampshire		X						
Rhode Island	X							
Vermont	X							
REGION II								
New Jersey		X		X	X	X	X	If transfer declaration is false or there is any other noncompliance with ECRA, transferee or NJDEP may void transfer, transferor is strictly liable for cleanup costs and fines up to \$25,000/day.
New York			X				X	Owners of property listed in Registry of Inactive Hazardous Waste Sites will be indexed by July 1, 1993.
Puerto Rico	X							
REGION III								
Delaware			X					
District of Columbia			X					
Maryland			X					
Pennsylvania			X					
Virginia			X					
West Virginia			X	X				Transferor provides notice in deed or other instrument. If grantee or lessee intends to use property for hazardous waste, must provide 30 day notice to grantor or lessor.

PROPERTY TRANSFER PROVISIONS (Cont'd)

State	No Law	Super Lien	Record on Deed	Disclose before transfer	Examine before transfer	Cleanup before transfer	Data Base	Notes
REGION IV								
Alabama	X							
Florida	X							
Georgia	X							
Kentucky	X							
Mississippi	X							
North Carolina			X					DEQ maintains copies of CERCLIS and RCRA lists and allows inquirers to review and copy the files. Within 180 days of determination that property is inactive hazardous site, owner prepares notice, which when approved by DEHNR is recorded. When hazards are eliminated cancellation of notice is recorded.
South Carolina	X							
Tennessee								
REGION V								
Illinois				X				Parties may void transfer based on information in disclosure statement.
Indiana			X	X				If disclosure document reveals environmental defects unknown to other party, party is relieved of obligation to accept or finance transfer.
Michigan			X	X				Recordation triggered by transfer.
Minnesota			X	X			X	Recordation triggered by transfer. Failure to record does not affect transfer of ownership.
Ohio	X							
Wisconsin	X							
REGION VI								
Arkansas		X						
Louisiana			X					Owner must record site used for disposal of hazardous waste or solid waste landfill even if there is no transfer contemplated.
New Mexico	X							
Oklahoma	X							
Texas	X							

TABLE V-15 (Cont'd)

PROPERTY TRANSFER PROVISIONS

State	No Law	Super Lien	Record on Deed	Disclose before transfer	Examine before transfer	Cleanup before transfer	Data Base	Notes
REGION VII								
Iowa			X	X			X	
Kansas	X							
Missouri			X	X				Notice that a site has been placed on or removed from the state registry is sent to the recorder.
Nebraska	X							
REGION VIII								
Colorado	X							
Montana	X						D	State uses a list and map of hazardous waste sites which is available to the public. Database with locations of hazardous waste sites should be completed winter 1992.
North Dakota	X							
South Dakota	X							
Utah	X							
Wyoming	X							
REGION IX								
Arizona								
California							X	
Hawaii	X							
Nevada	X							

TABLE V-15 (Cont'd)

PROPERTY TRANSFER PROVISIONS

State	No Law	Super Lien	Record on Deed	Disclose before transfer	Examine before transfer	Cleanup before transfer	Data Base	Notes
REGION X								
Alaska	X							
Idaho	X							
Oregon	X							
Washington	X						X	

CHAPTER VI

STATE SUMMARIES

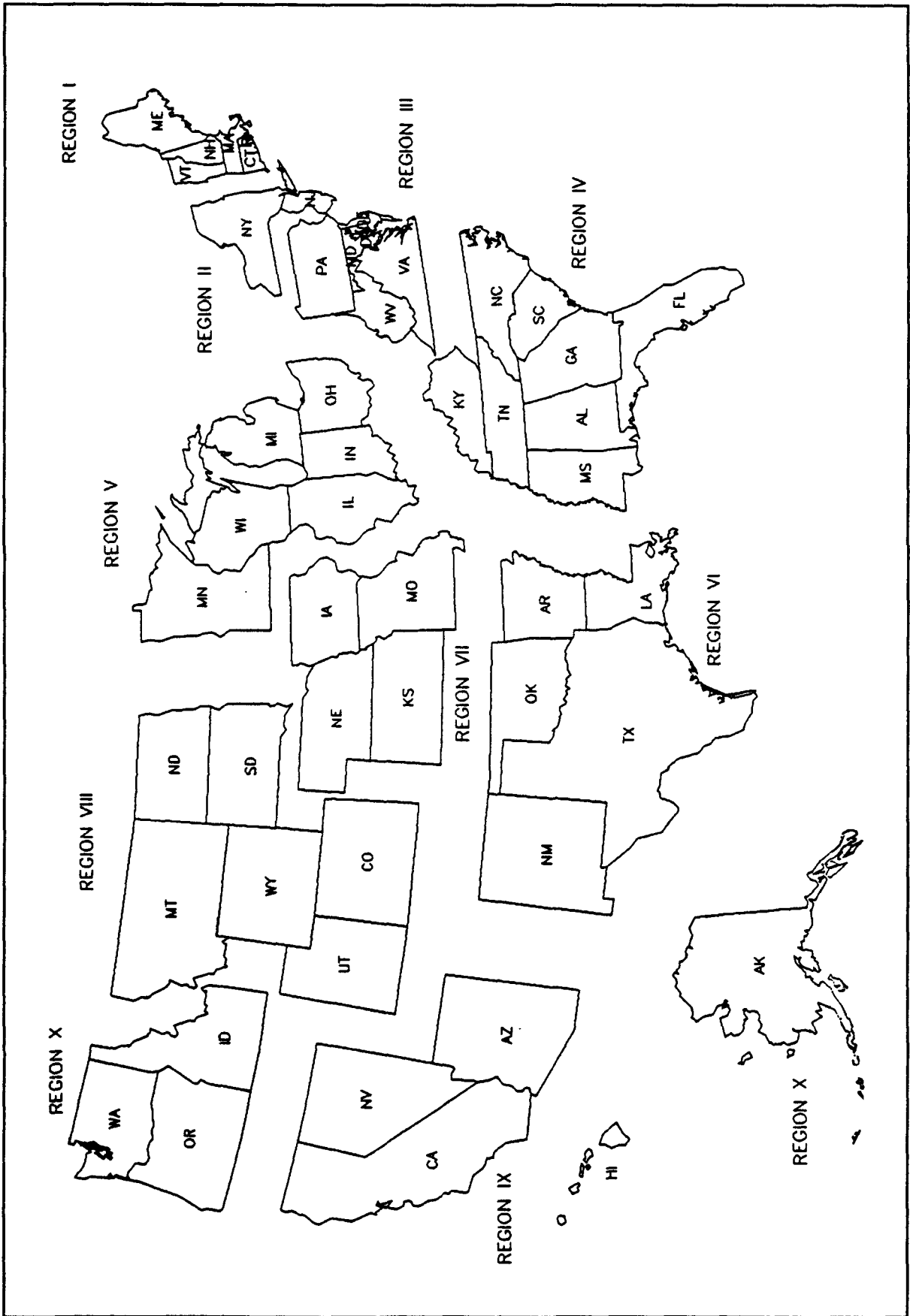
This chapter contains a concise, two-page summary of each State's hazardous waste cleanup capabilities. The States are listed according to EPA Regions.

Nine program elements are described in each of the summaries:

- Sites - includes NPL sites, State list sites, State priority list or registry sites, unconfirmed or potential State sites, or total identified hazardous waste sites.
- Statutes - lists legislation providing Fund, cleanup, and enforcement capabilities, and major provisions of statute(s), including significant amendments.
- State Agency - describes State agency(s) responsible for hazardous waste cleanup, including number of program staff and number of staff providing legal support.
- Funding - includes description of funding mechanism, sources of funds, fund balances, annual additions, and authorized expenditures.
- Enforcement - discusses legal authorities such as liability standard, cost recovery, penalty and damage provisions, order authority, in addition to enforcement methods.
- Cleanup Activities - presents information on cleanup activities at both NPL and non-NPL State sites.
- Cleanup Policies and Criteria - summarizes cleanup standards and/or criteria and policies used for remedy selection.
- Public Participation - summarizes statutory requirements and State policies and procedure for public participation in the hazardous waste cleanup program.
- Federal/State Partnership - lists any agreements or grants existing between the State and EPA and between the State and the Department of Defense (Defense and State Memorandum Agreement (DSMOA)).

The information for each of the State programs is current as of the date indicated on the first page of the summary.

FIGURE VI-1
EPA REGIONS



REGION I

**Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont**

SITES

NPL sites	15
Proposed NPL	0
State list	Inventory of Haz. Waste Disposal Sites: 585 sites (includes NPL sites)
Identified sites	Approx. 1150

CONNECTICUT

[12/2/91]

STATUTES

1. *Public Act 87-561*, codified at Conn. Gen. Stat. §§22a-114 and §§22a-133a through -133k (1987, amended 1989) creates State Superfund program, authorizes Fund expenditures and cost recovery.
 2. *Emergency Spill Response Fund*, Conn. Gen. Stat. §22a-451(d) (1982) provides response Fund.
 3. *Transfer of Hazardous Waste Establishments Program*, Conn. Gen. Stat. §§22a-134 through -134e (1985) creates property transfer program and negative declaration requirement.
 4. *Water Pollution Control Laws*, Conn. Gen. Stat. §§22a-432, 22a-433 (1967 and subsequent amendments), provide authority for administrative cleanup orders.
-

STATE AGENCY

Department of Environmental Protection, Waste Management Bureau, Site Remediation and Closure Division includes 48 staff supported with State and Federal funds. The AG's office provides legal support with several attorneys working part-time on State superfund issues (2-3 FTEs).

FUNDING

Funding vehicles include the Emergency Spill Response Fund, with a balance of \$4.9M (10/90). The primary funding source for cleanups is a bond fund authorized by a Special Act in 1987. Another bond fund was initiated in 1986, but no expenditures have been made from this fund. The Emergency Spill Response Fund is primarily funded by a generator tax. Hazardous waste civil penalties and criminal fines are also credited to the Fund.

The Response Fund and Special Acts monies can be used to pay for studies and design, emergency response, removals, remediation and State CERCLA match. O&M costs are paid from State General Fund, with a limited amount of funding from the Response Fund.

In order to expend Funds on remedial actions, DEP must determine threat is unacceptable, be unable to determine RP, or RP must be in non-compliance with or appealing order.

CONNECTICUT (continued)

ENFORCEMENT

Legal authorities available include strict, joint and several liability, orders for information and site access, subpoena authority, administrative and consent order authority, injunctive action and cost recovery authority. Civil penalties of \$25K/day available under hazardous waste program, 1 1/2 x punitive damages available in cost recovery actions. Priority lien provision also available. Preferred enforcement method is consent order, followed by administrative order, or court action. State is required to attempt cost recovery.

CLEANUP POLICIES AND CRITERIA

Determined on site-by-site basis, including consideration of ground-water classification and related water quality criteria. Cleanup standards for soil and water are usually set at drinking water standard, MCL, or State Action Level. If no such reference standard exists, Department of Health will assist DEP in setting risk level. Regulations setting cleanup standards for hazardous waste sites must be issued by July 1992.

CLEANUP ACTIVITIES

Inventory of 585 sites includes 50 sites that have been cleaned up. Approximately 500 sites under consideration for listing on Inventory.

PUBLIC PARTICIPATION

No formal public participation requirements. DEP contacts local officials with cleanup workplan and holds public meetings at various stages of investigation and cleanup at State-funded sites.

FEDERAL/STATE PARTNERSHIP

State has two MSCAs, a CPCA, and 2 TAGs.

SITES

NPL sites	9
Proposed NPL	0
State Inventory	160
Identified Sites	373 (includes NPL sites). Of these sites, at least 120 need no further action.

MAINE

[12/2/91]

STATUTE

1. *Uncontrolled Hazardous Substance Sites Act*, Maine Rev. Stat. §§1361 through 1371 (1983, amended 1985, 1987, and 1990) provides for cleanup of sites and enforcement authorities.
2. *An Act to Assist in the Cleanup of Contaminated Property*, P.L. 1991, Chapter 81, L.D. 156 (May 6, 1991) protects innocent landowners from liability for cleanups of spills caused by others.

STATE AGENCY

Department of Environmental Protection, Bureau of Oil and Hazardous Material Control, Division of Site Investigation and Remediation has 27 staff split into three sections: administrative support and two site management units. Funding from Federal and State sources.

One and one-half positions in the AG's office are devoted to Superfund-type enforcement activity. DEP also works with Bureau of Health in conducting risk assessments and lab work.

FUNDING

Four accounts:

(1) The Uncontrolled Substances Sites Bond Account contains approximately \$4.8M, as of 8/91.

(2) The Uncontrolled Sites Fund contains \$2.3M obtained through cost recovery actions as of 8/91.

(3) Landfill Closure/Remediation Bond Account, which contains \$13M (8/91) has now become available for hazardous waste cleanups due to reorganization of DEP.

(4) Solid Waste Fund, has a balance of \$600K as of 8/91, derived from taxes and fees assessed on special waste streams, new "white goods," new electronic equipment, asbestos and other special wastes.

All four sources of funds can now be used for site investigation, emergency response, studies and design, remedial actions, O&M, and State CERCLA match.

MAINE (continued)

ENFORCEMENT

Legal authorities include strict, joint and several liability, orders for information, site access and remediation, order authority, cost recovery, liens and punitive damages. Commissioner must designate a site for consent decree. Penalty authority from hazardous waste statute. DEP also has property forfeiture provision (used once).

State prefers negotiated agreements. About 20 cleanup orders issued to date. Cost recovery settlement received in two cases. DEP writes and negotiates agreements, AG handles other enforcement.

CLEANUP POLICIES AND CRITERIA

Case-by-case. Risk to human health, future water uses, drinking water standards and toxicity levels considered. Risk range of 10^{-5} acceptable for carcinogens. At urban sites, Maine has applied background level cleanup standards for ground-water contamination.

PUBLIC PARTICIPATION

No formal requirements. Participation on an ad hoc basis. DEP policy is to keep local officials and residents informed. Records are open for public inspection under Maine's FOIA.

CLEANUP ACTIVITIES

No State-lead NPL sites. Six sites cleaned up; 160 sites are known to need investigation or cleanup. Discovery program in 1987 identified 180 sites in a two-week period. State has complaints of approximately 150 unconfirmed sites.

As of 8/91, \$2.4M was spent and \$1.3M encumbered from the Bond Account; \$100K was spent and \$1M encumbered from the Uncontrolled Sites Fund; \$5.1M spent and \$1.1M encumbered from the Landfill Closure/Remediation Bond Account. This information was unavailable for the Solid Waste Fund.

FEDERAL/STATE PARTNERSHIP

For FY91, Maine has 1 DSMOA, 1 CPCA, 2 MSCAs, and 3 TAGs.

SITES	
NPL sites	25
Proposed NPL	0
Priority List	474
Unconfirmed sites	2482
State Inventory (confirmed sites)	2512 (includes NPL sites)
Identified sites	5137

MASSACHUSETTS

[12/2/91]

STATUTE

The *Massachusetts Oil and Hazardous Material Release Prevention and Response Act*, Mass. Gen. Laws ch. 21E (1983, amended in 1986), provides for strict, joint and several liability; site access, information, and administrative order authority; injunctive relief; civil and criminal penalties; cost recovery; priority liens; and citizen suits.

STATE AGENCY

The Department of Environmental Protection's Waste Site Cleanup Program has 460 authorized positions, of which 220 positions are funded, including 22 Federally funded positions. The Bureau of Waste Site Cleanup is the lead bureau administering the Waste Site Cleanup Program. Two other bureaus within DEP also have staff dedicated to the program.

In addition, twelve DEP attorneys and eight attorneys in the AG's office provide enforcement support.

FUNDING

Bonds fund program activities. A bond balance of \$37M as of 7/91 (out of \$85M authorized) remains available for site investigation, studies and design, removals, emergency response, remedial actions, CERCLA match, and O&M. Bonds are repaid by cost recovery, and hazardous waste transporter fees (approx. \$6M/yr) are used for debt service.

Program administration and personnel costs are financed by penalties, fines and cost recovery (including oversight cost recovery) deposited in the Environmental Challenge Fund (ECF). Balance of ECF is zero as of 7/91 with expected annual additions of \$3.8M. A one-time appropriation in 1987 of \$21M to the ECF was exhausted. DEP is currently working to establish a permanent funding source for the Waste Site Cleanup Program.

MASSACHUSETTS (continued)

ENFORCEMENT

DEP will provide PRPs an opportunity to clean up a site; if the party is recalcitrant, DEP will clean up the site and recover costs. Administrative orders are used less frequently, due to the appeals process. Voluntary cleanup is high (80-85%), which program staff attribute to the statute's provisions for priority liens and treble costs. Two third-party IAGs have been being negotiated at Federal facility NPL sites, which are all EPA-lead.

CLEANUP ACTIVITIES

264 RAs completed. An additional 2248 confirmed sites and 2482 suspected sites are on the State List of Confirmed Disposal Sites and Locations to be Investigated.

80-85% PRP cleanups.

One State lead at one NPL site.

In FY91, \$9.3M was spent from the Bond Fund and \$9M was spent from the Environmental Challenge Fund.

CLEANUP POLICIES AND CRITERIA

Permanent solutions required. Cleanup to background conditions required where feasible. Temporary solutions required at priority sites until permanent solution becomes feasible. Applicable or suitable analogous Massachusetts health and environmental standards are cleanup requirements at all disposal sites (although more stringent requirements may apply). In addition, "total site risk" drives derivation of site-specific health-based cleanup requirements for complex sites.

Risk assessments are used to determine cleanup standards. In sum, a non-carcinogenic effect of 0.2 on the Hazard Index and a combined (additive) cancer risk of 10^{-5} are used. The Hazard Index is calculated for groups of chemicals with the same mechanism of toxic action.

PUBLIC PARTICIPATION

The statute and regulations require public notice of site investigation results within 30 days of completion. Public meetings are held upon petition for community involvement regarding response actions. State technical assistance grants and public site inspections are also available, and local officials are informed of site activities throughout the cleanup process.

FEDERAL/STATE PARTNERSHIP

For FY91, Massachusetts has one MSCA covering 22 sites; two site-specific CAs; three TAGs; 1 CPCA; 1 DSMOA, and 1 LUST CA.

SITES	
NPL sites	16
Proposed NPL	1
Identified sites	Between 150-175 (non-NPL sites)
State inventory	400+

NEW HAMPSHIRE

[12/2/91]

STATUTE

New Hampshire Hazardous Waste Laws, Hazardous Waste Cleanup Fund (HWCF), (1981, amended 1983, 1985, 1986, 1987, and 1990), establishes State Fund and provides for strict, joint and several liability, criminal penalties, cost recovery, and first priority liens on real property where hazardous waste or hazardous material is located, the business revenues generated from the facility on the real property where the hazardous waste or hazardous material is located, and all personal property located at this facility. A lien without priority, effective as of the date and time of recording and filing, can be established against all other property.

STATE AGENCY

The Waste Management Division of State's Department of Environmental Services (DES) administers HWCF. The Division is broken into three bureaus. The Waste Management Division is primarily responsible for Federal and State Superfund work and has several staff funded or partially funded by the HWCF. The HWCF also funds three other hydrogeologist positions within the Water Supply and Pollution Control Division. AG's office provides legal support (out of four attorneys who work on all environmental issues) and receives an annual appropriation from the HWCF.

FUNDING

The HWCF has a balance of \$3.3M (6/91). The Fund is derived primarily from quarterly fees paid by generators of hazardous waste and recovered costs. Penalties, fines, and appropriations also are placed in the HWCF. An average of \$850K is collected each FY.

The HWCF can be used for site investigation; operation and maintenance; CERCLA match; and grants to local governments. Recent amendments to the Hazardous Waste Laws allow Fund monies to be expended for projects that qualify for assistance pursuant to Federal Superfund. All Fund expenditures must be approved by the governor.

NH Rev. Statutes Ann. 147-B provides for issuing bonds, to be paid from the HWCF, to fund remedial investigation and cleanup. There is less than \$100K in this bond fund. A second bond issuance of \$1.5M was authorized in 1991, and will be paid from the State's general fund.

NEW HAMPSHIRE (continued)

ENFORCEMENT

The New Hampshire Hazardous Waste Laws provide for strict, joint and several liability. State is authorized to issue administrative orders including orders for information, site access, and site cleanup. State also has subpoena and consent order authorities. State may take injunctive action to induce generator to clean up site. State has first priority lien on real property where hazardous waste and hazardous materials are located, on business revenues generated from the facility on the real property where the hazardous wastes and hazardous materials are located, and on all personal property located at the facility. State may impose criminal penalties and bring action to recover costs.

CLEANUP ACTIVITIES

The HWCF is used to fund several staff positions within DES, and has been used for emergency removal at the N.H. Plating facility in Merrimack, and for various hydrogeological studies at sites in the preliminary stages of investigation. It also was used to engage in clean-up order actions at the Hunt Tire facility. Portions of the HWCF are used for a household hazardous waste clean-up program, and to pay the AG's office for legal services. From the HWCF, \$1.22M was spent and \$1.35M was encumbered in FY91.

CLEANUP POLICIES AND CRITERIA

Cleanup must meet or exceed Federal standards. The State ARARs are as stringent as, or more stringent, than Federal standards. Cleanup standards are selected on the basis of site-specific, regulatory and risk-based assessments. Risk levels are set site-by-site, based on contaminant, media and land use. Generally a 1×10^{-6} risk level is used.

PUBLIC PARTICIPATION

No formal requirements. State may hold public hearings in enforcement actions. The State is currently studying and establishing public participation procedures, and intends to hire a public relations coordinator. Presently RPMs informally contact local citizens and government officials.

FEDERAL/STATE PARTNERSHIP

For FY91, New Hampshire has one MSCA for seven sites, one SACA that covers ten NPL sites, five SSCAs, one CPCA, and one TAG.

SITES	
NPL sites	11
Proposed NPL	1
Identified sites	290

RHODE ISLAND

[12/2/91]

STATUTE

Hazardous Waste Management Act, R.I. Gen. Laws, §§23-19.1-1 through 23-19.1-33 (1978, amended, 1979, 1984, 1987) provides authorities for cleanup of abandoned/uncontrolled/inactive sites. Environmental Response Fund established by amendment, §23-19.1-23 (1984).

STATE AGENCY

Department of Environmental Management, Division of Air and Hazardous Materials, Environmental Response Section has 12 full-time professional staff. Staff funding from CPCA, CAs for NPL oversight and preremedial work, and Bond Fund.

In-house legal support provided by one attorney (60% of time), with assistance from two attorneys at the AG's office on criminal cases.

FUNDING

Environmental Response Fund has a balance of \$800K (10/91). Primary source of Fund is bonds, with smaller contributions from cost recoveries and penalties/fines.

Fund may be used for site investigation, emergency response, removals, site evaluation, remedial action, CERCLA match, and temporary water supplies and resident relocation.

RHODE ISLAND (continued)

ENFORCEMENT

Legal authorities include "absolute" liability (strict), subpoena, administrative orders, injunctive action, civil and criminal penalties, cost recovery and treble damages.

CLEANUP POLICIES AND CRITERIA

Case-by-case; no standards. Some degree of risk analysis usually conducted. Developing State procedures.

CLEANUP ACTIVITIES

35 State enforcement orders.

PUBLIC PARTICIPATION

No formal requirements or informal procedures on State cleanups. On Federal enforcement sites, process may include hearings where public can become involved. Public informational meetings are conducted upon request.

FEDERAL/STATE PARTNERSHIP

State has two MSCAs, a CPCA, and one TAG.

SITES

NPL sites	8
Proposed NPL	0
State Inventory (includes petroleum and non-petroleum sites)	1100
Identified sites (includes petroleum and non-petroleum sites)	959

VERMONT

[12/2/91]

STATUTES

1. *Vermont Water Pollution Control Law*, Vt. Stat. Ann. Tit. 10 §§1282-1283, provides a contingency fund for emergency response, studies and design and remedial actions; and Vt. Stat. Ann. Tit. 10 §§1921-1944 provides a petroleum cleanup fund.
2. *Vermont Solid Waste Management Law*, Vt. Stat. Ann. Tit. 10 §§6601-6618 (1977, significant amendments in 1981, 1985, and 1987) provides enforcement authorities.
3. *An Act Relating to Administrative Enforcement of Specified Environmental Laws (Act 98)*, Vt. Stat. Ann. Tit. 10 §§8001-8221 (1989) provides additional enforcement authorities.

STATE AGENCY

Agency of Natural Resources, Department of Environmental Conservation, Hazardous Materials Management Division, Hazardous Sites Management Section has 11 technical staff. Section handles all hazardous waste work including CERCLA, RCRA, pre-remedial and State list work. Three attorneys at AG's office spend at least 50% of time on hazardous waste cases. Administrative costs from appropriations, Federal grants.

FUNDING

Environmental Contingency Fund balance of \$1M as of 8/91, with \$670K collected in FY91. No cap on Fund. Funding sources are a hazardous waste generator tax, discharge permit application fees, cost recovery and damages.

The Petroleum Cleanup Fund (PCF) has a balance of \$3.1M, with \$3M collected last year. PCF is generated by an annual tank assessment fee required to be paid by UST owners, which generates \$300K per year; and one cent motor fuel license fee charged to distributors of gas or diesel fuel, which generates \$2.5M-3M per year.

Both funds can be used for site investigation, emergency response, studies and design, and remedial actions. However, PCF can also be used for operation and maintenance costs. PCF covers up to \$1M in cleanup costs per site, with a \$10K deductible, and \$1M in third-party claims. State CERCLA match not financed out of Contingency Fund. Disbursements for categorical expenditures specified in statute cannot exceed \$50K without approval of legislative joint fiscal committee.

VERMONT (continued)

ENFORCEMENT

Under Fund, Agency must give "discharging party" opportunity to clean up. Agency sends out letters, to be followed by administrative order in the event of noncompliance. 95% of sites are voluntarily cleaned up by RPs. The State has strict, joint and several liability and treble damages provisions. Liability apportionment is available. The Agency has strong order authority including authority to request information, subpoena documents, issue administrative orders, issue consent orders, and issue orders for entry. Civil penalties of \$50K per violation in addition to \$50K per day for continuing violation.

Penalties and fines go to General Fund; recovered costs go into Contingency Fund.

CLEANUP ACTIVITIES

438 sites have been closed as of 8/91.

\$315K was spent on cleanup from the ECF last year (FY91) and \$4M was spent from the PCF between 1/91 - 10/91 on cleanup.

CLEANUP POLICIES AND CRITERIA

Water quality criteria based on ground-water statute and drinking water standards are used as triggers for remedial action. Actual cleanup determination made on a case-by-case basis. State is developing procedures for determining cleanup standards on a site-specific basis.

PUBLIC PARTICIPATION

No formal requirements. Agency meets with town officials and holds public meetings. Statutory requirement to notify municipalities of sites within their borders; site designation must be entered on deed register.

FEDERAL/STATE PARTNERSHIP

Vermont has a SMOA in place, plus one MSCA, one SACA, one CPCA, one DSMOA and two LUST Grants.

REGION II

New Jersey
New York
Puerto Rico

SITES

NPL sites	109
Proposed NPL	0
State Inventory	approx. 600 major sites
Identified sites	being inventoried (expected to be at least several thousand)

NEW JERSEY

[12/2/91]

STATUTES

1. *New Jersey Spill Compensation and Control Act*, N.J.S.A. §§58:10-23 through 58:10-23-26 (1976, amended 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, and 1990), establishes Fund for public cleanups and provides authority for emergency response, removals, and remedial actions and for cost recovery and damages.
2. *New Jersey Hazardous Discharges Law*, N.J.S.A. §§13:1k-15 through 13:1k-19 (1984).
3. *New Jersey Environmental Cleanup Responsibility Act (ECRA)*, N.J.S.A. §§13:1k-6 through 13:1k-13 (1983), requires transferors of industrial property to obtain certification or approval of cleanup plan.

STATE AGENCY

New Jersey Department of Environmental Protection and Energy (NJDEPE), Site Remediation Program, Division of Publicly Funded Site Remediation is responsible for the publicly funded cleanup program, provides technical assistance for both publicly and privately funded cleanups, and conducts community relations activities. Approx. 400 staff funded by Spill Compensation Fund, bond funds and EPA grants. The Division of Responsible Party Site Remediation (390 staff) handles site investigations, negotiates with RPs, oversees RP-lead cleanups, and administers the ECRA, LUST, RCRA, and spill response program. This Division is funded through EPA grants, responsible party reimbursements, fees, appropriations, and the Spill Compensation Fund.

The Attorney General's office conducts legal support for the Division from the Hazardous Waste Litigation Section (30 staff). The NJDEPE's Environmental Claims Administration handles claims made against the Spill Compensation Fund.

FUNDING

New Jersey Spill Compensation Fund provided for by transfer tax on hazardous substances (generates approximately \$19.4M per year), penalties (\$3.3M), interest (\$6.8M), cost recovery (\$2.3M). Cash balance in Fund \$94.4M (6/30/91) (including authorized funds and set asides for claims). Spill Fund available for emergency response, removals, studies and design, remedial action, O&M and CERCLA match, personal or property damage claims.

NJDEPE must attempt to arrange settlement between claimant and the RP, or if RP unknown, NJDEPE must settle claim against Fund. Claims totaling \$78M have been asserted for personal or property damage.

Hazardous Discharge Site Cleanup Fund is credited with bond authorizations and cost recovery. Balance is \$115.7M as of 9/91. \$200M authorized in bonds. The Hazardous Discharge Site Fund available for same uses as Spill Fund, except personal or property damages claims.

As of 6/30/91, \$101.6M of the Capital Fund lapsed to State Treasury; \$52.2M in reserve to balance budget; \$0 available for cleanup.

NEW JERSEY (continued)

ENFORCEMENT

Legal authorities include strict, joint and several liability, with a treble damages provision applicable to NJDEPE costs. Injunctive action, cost recovery authorized in Act. Civil penalties of up to \$50K per day. Catastrophic discharge provision allows for penalties of up to \$10M for discharges $\geq 100,000$ gallons. Lien provision in statute has priority over all other liens. Department policy, to preserve treble damages provision, is to provide RP notification and chance to cleanup.

CLEANUP POLICIES AND CRITERIA

Use appropriate and applicable existing criteria, or action levels, including water quality criteria, MCLs/MCLGs, risk standard/assessment, EPA guidelines and background levels. Standards assessed on a site-by-site basis and should be consistent with NCP. NJDEPE in process of developing risk-based soil and groundwater standards, currently uses Interim Soil Action Levels, which are based on approximations of background concentrations.

CLEANUP ACTIVITIES

Of the NPL sites in State, approx. one-third State-funded, one-third Federally-funded, one-third privately-funded. Approx. 40% of NPL sites in State are State-lead.

Approx \$37.7M was spent during FY91 from the Spill Fund, \$11.2M from the Hazardous Discharge Site Cleanup Fund, and \$0 from the Capital Fund.

PUBLIC PARTICIPATION

The Spill Act specifies that actions should "to the greatest extent possible, be in accordance with the NCP." Department policy is to generally follow NCP procedures. State holds public meeting prior to adopting RODs, public meeting prior to RI/FS, upon completion of RI/FS, upon completion of RD, at beginning of RA, at conclusion of RA.

FEDERAL/STATE PARTNERSHIP

No SMOA. State has received 13 MSCAs and 31 site-specific CAs. CPCA in FY91 and three LUSTCAs. Three TAGs have been awarded.

State received approximately \$196.2M from Federal Superfund for FY91.

SITES

NPL sites	83
Proposed NPL	21
State list	1,464; 1,052 on registry (includes NPL) plus 412 delisted
Identified sites	478: 433 under investigation and 43 awaiting investigation

NEW YORK

[12/2/91]

STATUTES

1. *Abandoned Sites Act of 1979* (1979, Chapter 282, Environmental Conservation Law article 27, title 13) mandates statewide inventory of sites, registry of sites, and provides order and cleanup authority.
2. *New York State Superfund Act* (1982, Chapter 857), establishes Fund for cleanup of sites and State CERCLA match. 1985 Amendments to State Superfund Act (1985, Chapter 38) increased assessments and fees.
3. *Environmental Quality Bond Act of 1986*, authorizes \$1.2B in bonds to address inactive hazardous waste sites, \$100M of which was redirected for use in cleaning up nonhazardous waste landfills.

STATE AGENCY

Appropriations for staff from State General Fund transferred to Hazardous Waste Remedial Fund. Department of Environmental Conservation (DEC) has approx. 341 staff working on State and Federal Superfund activities--314 funded by State and approx. 27 funded by Federal monies. Most of personnel in Division of Hazardous Waste Remediation. Approx. 20 staff work on State Superfund in the Division of Environmental Enforcement. Seven attorneys with the AG's office work on cleanup issues. 82 staff in the Dept. of Health work on this program as well.

FUNDING

Current funding mechanism is Hazardous Waste Remedial Fund, State Finance Law §97-6. Prior to 4/1/87 hazardous waste assessments, regulatory fees and an oil transfer surcharge funded this "Investigation and Construction Account." In 1989, State began selling EQBA bonds. Remaining bonding capacity is \$973M.

Since 4/1/87, assessments, fees, and oil transfer surcharge have been placed in "Industry Fee Transfer Account," which will be used to pay for one-half of debt service on bonds. Waste end fee collections, regulatory fees and petroleum transfer fee collections totalled \$26.5M in 1990/91.

Hazardous Waste Remedial Fund used for site investigation, emergency response, removals, studies and design, remedial actions, O&M, State CERCLA match and Title 3 grants to municipalities.

NEW YORK (continued)

ENFORCEMENT

Division of Environmental Enforcement and AG's office involved in enforcement activities. Legal authorities include orders for information and site access, subpoena authority, administrative order authority, consent order and injunctive action authority. Civil penalties of \$25K per violation in addition to \$25K per day for continuing violation. Penalty doubles for second violation. Criminal penalty up to \$25K/day and/or one year imprisonment. Penalty doubles for second violation. Cost recovery also authorized. Preferred enforcement method is negotiated settlement.

CLEANUP ACTIVITIES

Of the 1,052 sites on Registry, 824 have action underway, 77 awaiting cleanup, 45 awaiting investigation, 54 others with deferred action, 52 sites cleaned up of which 46 require O&M, six require no O&M, 412 sites delisted, 53 cleaned up, 359 required no action. Goal is to remediate 500 sites by year 2000.

CLEANUP POLICIES AND CRITERIA

Decisions on site-by-site basis in cooperation with the Department of Health. DEC policy is to encourage use of permanent remedies. Standards have been proposed by interagency task force.

PUBLIC PARTICIPATION

Rules specify DEC must publish notice and brief analysis of remedial program, allow 30 days for comments, provide opportunity for comments at public meeting, establish a document repository and contact list, and perform mass mailings. DEC must solicit view of Federal, State and local government officials, local civic organizations, and local residents. State Superfund Management Board, charged with oversight of the remedial program, includes environmental group and citizen representatives.

FEDERAL/STATE PARTNERSHIP

One MSCA, a CPCA, and 25 SACAs awarded in State. State submitted draft SMOA November 1990. Nine TAGs awarded in State.

SITES

NPL sites	9
Proposed NPL	0
Identified sites	~ 200 (on CERCLIS)

PUERTO RICO

[12/2/91]

STATUTE

Puerto Rico Environmental Emergencies Fund Act, Law 81 (1987). This establishes the Environmental Emergencies Fund and it authorizes the Environmental Quality Board to respond to emergencies and to recover response costs from liable parties.

STATE AGENCY

The Environmental Quality Board (EQB) of Puerto Rico has three sections dealing with Superfund. The Hazardous Waste Site Inventory Program (six staff), the Superfund Core Division (seven staff), and the Emergency Response Team (three staff). Legal support is provided by one employee of the legal department of the EQB.

FUNDING

The Environmental Emergencies Fund received \$4.1M for FY91 and, in addition, the Fund receives a \$1M appropriation each year from the Environmental Emergency Response Law 81. The Fund balance is \$2.9M (6/30/91), some of which is encumbered. In addition to appropriations, the Fund collects monies from Federal grants and cost recovery.

Ten percent of the Fund may be allocated for administrative costs. The Fund currently covers the salary of the Emergency Response Team, and may be used for emergency response, removals, remedial action, CERCLA match, and RI/FS work on non-NPL sites.

PUERTO RICO (continued)

ENFORCEMENT

Puerto Rico has a very general liability standard: if the Environmental Quality Board needs to clean up a site, the RP must pay. Puerto Rico uses CERCLA definition of RP. RPs almost always conduct and fund oil spill cleanup, but no other types of cleanup. No system exists for collecting civil penalties or punitive damages.

**CLEANUP POLICIES
AND CRITERIA**

Puerto Rico does not have any non-NPL sites, but EQB uses following criteria as standards for cleanup: water quality, MCLs/MCLGs, background, and EPA guidelines. EQB only uses risk assessment for non-NPL sites for which EPA has lead. EQB evaluates health risk in emergency response for non-NPL sites.

CLEANUP ACTIVITIES

Cleanup activity is limited to NPL sites and emergency response. Approximately \$1.1M was spent on cleanup activities during FY91.

PUBLIC PARTICIPATION

No public participation or public meetings on non-NPL sites. Public meetings are only conducted for superfund sites, or for EPA lead emergency removal sites.

**FEDERAL/STATE
PARTNERSHIP**

Working toward signing SMOA before 9/92. Puerto Rico received SACA and CPCA. One TAG was granted for FY92.

REGION III

**Delaware
District of Columbia
Maryland
Pennsylvania
Virginia
West Virginia**

SITES

NPL sites	20
Proposed NPL	0
State sites	70
Priority list	under development
Identified sites	investigated 250 sites

DELAWARE

[12/2/91]

STATUTE

Delaware Hazardous Substance Cleanup Act, Del. Code Ann. tit. 7, §§9101-9120 (1990), establishes fund for site cleanup and provides authority for emergency response, removals, and remedial actions and for cost recovery and damages.

No cleanup can be undertaken (i.e., at a property contemplated for transfer) without the department's approval or oversight, under the Interim Regulations Governing Hazardous Substance Cleanup, §10.1(3).

STATE AGENCY

Department of Natural Resources and Environmental Control (DNREC), Division of Air and Waste Management, Superfund Branch has 20 staff supported with State and Federal funds.

Legal support is provided by the AG's office with one attorney assigned to CERCLA work.

FUNDING

Program was funded through annual appropriation of \$125K for emergency response, with additional appropriations as needed. New Hazardous Substance Cleanup Fund receives petroleum products tax receipts, penalties, cost recovery and interest, which are expected to generate \$5M annually. Fund available for emergency response, removals, remedial actions, CERCLA match and loans to nonprofit and small business PRPs who settle. No more than 15% of fund balance may be expended for administration of the act without approval of legislative joint fiscal committee.

DELAWARE (continued)

ENFORCEMENT

Hazardous Substance Cleanup Act establishes strict, joint and several liability and authorizes cost recovery. DNREC must attempt settlement prior to initiating enforcement action, unless emergency exists. State has injunctive action and order authority. Civil penalties of up to \$10K per day; treble damages.

CLEANUP POLICIES AND CRITERIA

DNREC references water quality criteria and EPA guidances. New cleanup regulations anticipated by March 1992. New statute requires establishment of priority list.

CLEANUP ACTIVITIES

Four NPL State-lead cleanups ongoing.

In the last year the State obligated approx. \$200K from the fund for emergency response.

PUBLIC PARTICIPATION

Public must be notified and provided opportunity to comment on proposed settlement agreements and proposed remedial action plans.

FEDERAL/STATE PARTNERSHIP

SMOA signed 10/88. FY91 CPCA. State also has 13 SACA grants and two MSCAs.

SITES	
NPL sites	0
Proposed NPL	0
Identified sites	0 [+3 sites cleaned up]

DISTRICT OF COLUMBIA

[12/2/91]

STATUTES

1. The *Hazardous Waste Management Act of 1977*, D.C. Law 2-64, as amended, D.C. Code §6-701, authorizes the mayor to "institute the actions necessary to terminate" a violation where a person fails to take correction actions to comply with a notice of violation. It also provides for injunctions and civil penalties.

2. The *District of Columbia Underground Storage Tank Management Act of 1990*, D.C. Law 8-242, authorizes the establishment of an Underground Storage Tank Trust Fund to undertake corrective action including site assessment and cleanup under certain provisions.

STATE AGENCY

The Department of Consumer and Regulatory Affairs, Environmental Regulation Administration, Pesticides, Hazardous Waste and Underground Storage Tank Division has five people in the hazardous waste program and six people in the UST program. The Division does not at present have legal staff.

FUNDING

The District does not have a fund for hazardous waste cleanup. However, the District has funding for the cleanup of underground storage tanks. Funding for cleanup and administration comes from District general funds, Trust Fund, and Federal grants.

DISTRICT OF COLUMBIA (continued)

ENFORCEMENT

The District has injunctive and civil penalty authority. Civil penalties are assessed by civil infraction notices which function like traffic tickets.

**CLEANUP POLICIES
AND CRITERIA**

The District has promulgated a standard of 100ppm for petroleum and is in the process of looking at standards for other substances. Until it promulgates its own standards the District uses EPA standards and site assessment protocols.

CLEANUP ACTIVITIES

The District has cleaned up the three known sites.

Although the District does not have a cleanup fund for hazardous waste, it is currently setting up an Underground Storage Tank Trust Fund in FY92 which will be funded by tank registration fees and penalties.

PUBLIC PARTICIPATION

The District has no formal public participation requirements. In each case it gives notice designed to reach persons directly affected by the site.

**FEDERAL/STATE
PARTNERSHIP**

The Districts has a CPCA, but no MSCA or SACA. The District is discussing an SMOA with EPA.

SITES	
NPL sites	10
Proposed NPL	0
Priority list	40
Identified sites	393 (CERCLIS and State non-NPL remedial)
Inventory	531 (CERCLIS)

MARYLAND

[12/2/91]

STATUTE

Annotated Code of Maryland, Environment Article, Title 7-Hazardous Material and Hazardous Substances, Subtitle 2--Controlled Hazardous Substances, §§7-201 through 7-268 (1982, amended 1982, 1984, 1985, 1986, 1987 and 1989) provides for Hazardous Substance Control Fund and enforcement authorities.

STATE AGENCY

Department of the Environment (MDE), Hazardous and Solid Waste Management Administration, CERCLA Program has three divisions: (1) Pre-remedial Division, with approx. 14 full-time staff; and (2) Response Division, with 13 full-time staff; and (3) CORE Division, with seven staff. AG's office has staff located at MDE, two attorneys devote approx. 75% of time to CERCLA. Administrative costs from CORE grant, appropriations.

FUNDING

Subaccount of State Hazardous Substance Control Fund is funded by bond issuances. Fund balance of \$8.25M (11/91). No cap on fund. Board of Public Works authorization required prior to expenditure; Board has allocated funding for 31 projects. Fund monies can be used for emergency response, studies and design, remedial actions, O&M and State CERCLA match.

MARYLAND (continued)

ENFORCEMENT

No prerequisite to enforcement action, however, the State prefers use of administrative settlement. The Department sends a demand letter with a time-frame for compliance. AG may bring cost recovery action on an apportionment basis when there is reasonable basis for determining contribution. Recovery otherwise not apportioned. Statute authorizes orders for entry and search but not for information.

State has injunctive action, corrective action, consent order, and civil penalty authority.

CLEANUP ACTIVITIES

Two state-lead NPL sites. Thirty-one ongoing non-NPL cleanup projects, including sites where State oversees RP cleanup.

Last fiscal year, \$1,185,500 was spent from the fund.

CLEANUP POLICIES AND CRITERIA

State hazardous waste regulations and State hazardous substances response plan being updated to include cleanup standards.

PUBLIC PARTICIPATION

No formal requirements. Community Relations Coordinator or the site project manager arranges public meetings.

FEDERAL/STATE PARTNERSHIP

SMOA in negotiations phase. State received CPCA for FY91, and has six MSCAs. Recently signed a DSMOA.

SITES

NPL sites	94 [+7 sites cleaned up and delisted]
Proposed NPL	2
Priority list	8
State sites	119 awaiting PA
Identified sites	2501 with completed PA (not NPL or Priority list)

PENNSYLVANIA

[12/2/91]

STATUTE

The *Hazardous Sites Cleanup Act* (HSCA) (Act 108), 35 P.S. §6020.101 *et seq.*, enacted October 18, 1988, effective December 19, 1988, establishes a state fund, and provides for administrative and judicial enforcement authority, cleanup procedures, public participation, and loans and grants.

STATE AGENCY

The Department of Environmental Resources has approximately 127 staff in the State Superfund program and funded by the Fund--30 in the Hazardous Waste Sites Cleanup Program in the Bureau of Waste Management, 77 in the six regional offices, 12 in fee collection, four in advanced science and research, and four in construction management. In addition, 18 legal personnel are assigned solely to the HSCA program. The State also has an Emergency Response Program with its own funding and a staff of 18, plus six regional response teams of DER employees with other duties, and a six-member investigative unit.

FUNDING

HSC Fund has a \$21.8M balance (6/91) and anticipates annual revenues of \$89.75M; \$26.2M appropriations, \$52.2M from capital stock and franchise tax, \$4.5M from hazardous waste transportation and management fees. The fund also receives civil penalties and fines, and cost recoveries.

In addition to emergency response, removals and remediation, the fund may also be used, up to \$2.5M for emergency response related to non-hazardous substances, for a \$100K loan fund to facilitate private party cleanups, \$2M/year for grants for recycling equipment, for demonstration grants, and \$2M for incentives to municipalities where hazardous waste disposal facilities will be sited.

PENNSYLVANIA (continued)

ENFORCEMENT

The HSCA has comprehensive order and injunctive authorities, civil penalties, criminal penalties, treble damages, and orders for information and access. The HSCA provides for NBARs, *de minimis* settlements, natural resource damages, legal presumptions of culpability for contamination, and whistleblower protection. There is a 120-day notice period before a site may be placed on the State list, to encourage RP cleanup prior to listing. There is also a 120-day moratorium on enforcement at multi-party sites if RPs seek to negotiate shares. For remedial actions extending beyond interim actions, section 1301 requires DER to initiate action under other state laws (e.g. Clean Streams Law, Solid Waste Management Act) against owners or operators before it may do HSCA enforcement or cost recovery against RPs.

CLEANUP ACTIVITIES

EPA and/or the State have completed 2288 PAs at CERCLIS sites. Approximately half require no further action. Only 86 sites still need PAs. State has lead at six NPL sites for RI/FS. State has initiated responses at 20 non-NPL sites with 16 actions completed.

Last year the State spent \$26.3M on cleanup at Federal and State lead sites, \$179K on recycling grants, \$254K on host municipality grants and loaned the State UST fund \$292K to assist in start-up.

CLEANUP POLICIES AND CRITERIA

Until the State promulgates its own standards, HSCA provides that SARA §121 applies. On a case-by-case basis DER may add more stringent standards including state ARARs, or it may waive or modify otherwise applicable requirements under HSCA §504.

PUBLIC PARTICIPATION

DER must take public comment and hold public hearing on administrative record for remediation. DER must respond to all significant comments in making its decision on the record. However, interim response action can be taken as long as notice is provided within 30 days.

HSCA has citizen suit provision.

FEDERAL/STATE PARTNERSHIP

No SMOA; no CPCA. MSCA for six RI/FS. TAGs awarded at five sites.

SITES

NPL sites	20 [+1 site delisted]
Proposed NPL	0
State Inventory	100
Identified sites	531

VIRGINIA

[12/2/91]

STATUTE

Virginia Waste Management Act, Va. Code §§10.1-1400 through 10.1-1457 (1986, amended 1987, 1988, and 1990), provides for the Solid and Hazardous Waste Contingency Fund for emergency response, studies and design, remedial actions, and State CERCLA match.

STATE AGENCY

The Department of Waste Management, Division of Special Programs, has three branches dealing with site cleanup: (1) the Federal facilities program with three staff; (2) the pre-remedial program with nine staff; and (3) the Superfund remedial program with eight staff. The Division also has two administrative staff. For the most part, all three programs are Federally-funded. Budget cuts have curtailed State cleanup activity. The Department works with one attorney in the AG's office for enforcement and relies on the Dept. of Emergency Services (under the Secretary of Public Safety) for emergency response actions.

FUNDING

Solid and Hazardous Waste Contingency Fund contains a balance of \$73K (6/30/91). The major source of the Fund is solid and hazardous waste penalties and fines, of which \$64K was collected. The Fund also receives money from appropriations and cost recoveries. There is no cap on the Fund. The Fund is authorized for emergency response, removals, studies and design, site investigation, remedial actions, O&M and State CERCLA match.

VIRGINIA (continued)

ENFORCEMENT

State has statutory authority for administrative orders, consent orders, injunctive action, civil penalties, and cost recovery. Civil penalties can be imposed up to \$25,000/day. The State also has a lien provision and authority for criminal penalties. The State's preferred enforcement method consists of obtaining voluntary cleanup, without a consent order. 28 RP cleanups (voluntary) currently underway. No enforcement or cost recovery to date.

CLEANUP POLICIES AND CRITERIA

Cleanup standards are guided by health assessments and State ARARs. Health assessments performed by staff toxicologist. State also uses water quality criteria, NCLs/MCLGs and risk assessment. Risk level of 10^{-6} is generally considered a baseline cleanup level.

CLEANUP ACTIVITIES

State has lead at four NPL sites. Three non-NPL sites are RP lead, and one is State lead.

State also actively involved in groundwater modeling and innovative technologies at EPA-lead NPL sites.

\$111K was spent on cleanup activities during FY91.

PUBLIC PARTICIPATION

No formal requirements or informal procedures.

Community relations plan and administrative record requirements for contested sites and fund sites in draft form.

FEDERAL/STATE PARTNERSHIP

SMOA, CPCA, MSCA, SACA and DSMOA are all in effect. CAs obligated at 20 sites. State has also received annual pre-remedial grants. One TAG was granted.

SITES

NPL sites	5
Proposed NPL	0
State sites	431 (CERCLIS)

WEST VIRGINIA

[12/2/91]

STATUTES

Hazardous Waste Emergency Response Fund Act, W.Va. Code §§20-5G-1 through 20-56-6, provides Fund for emergency response and State CERCLA match.

The *Hazardous Waste Management Act*, W.Va. Code §20-5E, contains property transfer disclosure requirements.

STATE AGENCY

The Waste Management Section, within the Division of Natural Resources, within the Department of Commerce, Labor, and Natural Resources contains the Site Investigation and Response Office. The Office contains 11 FTE staff working on four programs: (1) pre-remedial PA/SI; (2) remedial; (3) CORE programs; and (4) emergency response. There is an additional enforcement unit within the Waste Management Section with seven staff serving hazardous waste and solid waste. The AG provides legal support with one staff member. State administrative costs are paid from fund and Federal grants.

FUNDING

Hazardous Waste Emergency Response Fund contains \$1.28M (9/91). Main source of fund is hazardous waste generator fees assessed on 71 generators in State. Fees set annually to approach revenue limit of \$500K per year and to maintain at least \$1M at the beginning of the calendar year. Generator assessments cease if unobligated balance exceeds \$1.5M at year end. (Fees start again when balance reaches \$1M.)

Fund may be used for emergency response, O&M, site investigation, and State CERCLA match. The fund may not be used for studies and design or for other preparations for remedial actions unless the fund balance exceeds \$1M and the expenditure does not reduce the balance below \$1M. Fund may be used only for hazardous wastes, not hazardous substances.

WEST VIRGINIA (continued)

ENFORCEMENT

Prior to fund expenditure, director must make "reasonable efforts" to secure agreements from owner/operator or other RPs to pay cleanup and remedial action costs. All monies collected pursuant to enforcement action or cost recovery deposited in fund. No enforcement action or cost recovery taken to date. Under fund statute, State has authority only for cost recovery, and interest collection for unpaid/late paid generator fees. Other enforcement action taken under State RCRA equivalent.

**CLEANUP POLICIES
AND CRITERIA**

In the process of being developed.

CLEANUP ACTIVITIES

No State-lead NPL sites.

Fifteen SIs underway since 1988, over 200 PAs completed since program inception.

Last fiscal year, \$394,658 was paid out from the fund.

PUBLIC PARTICIPATION

No formal requirements or informal procedures.

**FEDERAL/STATE
PARTNERSHIP**

SMOA and a DSMOA. CPCA and two MSCAs awarded.

REGION IV

**Alabama
Florida
Georgia
Kentucky
Mississippi
North Carolina
South Carolina
Tennessee**

SITES	
NPL sites	12
Proposed NPL	0
Identified sites	400 - 500

ALABAMA

[12/2/91]

STATUTE

Alabama Hazardous Substance Cleanup Fund (S. 132) (1988) provides enforcement authorities and establishes cleanup fund.

STATE AGENCY

Alabama Department of Environmental Management, Special Projects Office has twelve staff including support for its Federal and State programs. Special Projects has two units: the remedial unit (three staff) and the site assessment (pre-remedial) and State Superfund unit (five staff) plus four staff that can be used as needed.

Legal support is provided by the AG's office and DEM's six attorneys, though only used 1/3 FTE during FY91.

FUNDING

Alabama Hazardous Substance Cleanup Fund had a balance of \$147K as of 9/30/91. \$50K was added to the Fund during FY91. The Fund receives monies from cost recoveries, penalties/fines, and appropriations.

The Fund may only be used at sites that are not on NPL at time activity starts. The Fund is primarily used for small-scale emergency removals of drums.

No cap on Fund.

ALABAMA (continued)

ENFORCEMENT

Liability is proportional, not joint and several, and State determines proportional contributions; if it cannot it must file declaratory action and court determines proportions.

Legal authorities include administrative and site access orders, civil penalties, and cost recovery. Criminal penalties are available only through the regulatory programs but not the cleanup statute. Hearing required before issuance of administrative order unless imminent threat to human health or environment. State prefers voluntary agreements with RPs, if not it takes small-scale removal actions itself or refers the case to air or water programs for enforcement.

CLEANUP ACTIVITIES

State has only conducted removals.

During FY90 (ending 12/31/90), approximately \$10K was spent on cleanup activities. As of 9/30/91, \$48K was spent on cleanup activities which has not been reimbursed by RPs.

CLEANUP POLICIES AND CRITERIA

"Necessary to protect human health and the environment." Cleanup standards include water quality criteria and MCLs/MCLGs. State performs risk assessments and follows EPA guidelines and standards where there is no State standard.

PUBLIC PARTICIPATION

30-day comment period on Cleanup Plan required by statute. Single publication of notice in paper in county. Hearings required prior to issuing AO unless imminent threat to human health.

FEDERAL/STATE PARTNERSHIP

State has a SMOA, DSMOA, CPCA, SACA and CAs for PA/SI.

SITES

NPL sites	54
Proposed NPL	1
Sites needing attention	708
Identified sites	980

FLORIDA

[12/2/91]

STATUTES

1. *Florida Pollutant Discharge Prevention and Removal Act*, §§376.30 through 376.319 (1983, amended 1984, 1986, and 1988) establishes Water Quality Assurance Trust Fund.
2. *Florida Resource Recovery and Management Act*, Fla. Stat. §§403.701 through 403.7721 (1974, numerous amendments) establishes certain enforcement provisions and the Hazardous Waste Management Trust Fund, which serves as a holding account for Federal monies.

STATE AGENCY

Department of Environmental Regulation, Division of Waste Management, Bureau of Waste Cleanup contains five sections: (1) Hazardous Waste Cleanup (15 staff); (2) Prelim. Assessment (eight staff); (3) Site Investigation (14 staff); (4) Technical Support (17 staff) and; (5) Enforcement with six District staff. Approx. 60 total staff. Legal support provided by two attorneys in DER's Office of General Counsel. Administrative support from Fund, general revenue, other trust funds, and Federal monies. 12 additional staff are part of an Emergency Response Program, 5 in Tallahassee and 7 in regional offices.

FUNDING

Water Quality Assurance Trust Fund was set up with \$11M transfer from Coastal Protection Trust Fund. It is now funded by excise taxes, discharge permit fees, interest transfers from other funds, cost recovery and penalties and fines. Balance \$13.5M (5/91) unobligated funds. Projected revenue for FY91 is \$24.3M. Tax is levied if Fund balance falls below \$5M and suspended if Fund is over \$12M.

The WQATF funds emergency response, site investigation, studies and design, remedial actions, O&M, and State CERCLA match.

The Hazardous Waste Management Trust Fund serves as a holding account for Federal monies. It contains \$167K (10/91).

FLORIDA (continued)

ENFORCEMENT

Legal authorities include strict, joint and several liability, administrative and consent order authority, and cost recovery. Civil penalties available under hazardous waste statute. No authority for information orders or site access orders. Department does not have unilateral order authority. Enforcement process includes warning notices, consent orders, notices of violations, civil suits and appeals.

CLEANUP POLICIES AND CRITERIA

Site-specific based on risk assessments and any existing standards. Cleanup to water standard or ambient quality.

CLEANUP ACTIVITIES

State-lead cleanups on about 40% of NPL sites. Twenty State cleanups completed, work in progress on 18 sites. 200+ RP cleanups in RI phase, 40 in RA phase.

50% of State sites addressed by RPs, 25% need no action, 25% are State lead.

PUBLIC PARTICIPATION

No citizen participation or administrative record requirements. Involvement varies on site-specific basis.

FEDERAL/STATE PARTNERSHIP

One CA for preremedial program, one TAG.

SITES	
NPL sites	13
Proposed NPL	0
State registry	67
Identified sites	753+

GEORGIA

[12/2/91]

STATUTE

Georgia Hazardous Waste Management Act, GA Code Ann. §§12-8-60 through 12-8-83 (1979) establishes the Hazardous Waste Trust Fund and authorizes cleanups by State and makes generators, transporters, and owners/operators liable. This is primarily a regulatory statute as is the program. Statute amended effective 3/30/90 to increase public participation in RCRA permitting and add pollution prevention requirements.

STATE AGENCY

Land Protection Branch of the Environmental Protection Division of Department of Natural Resources. Three staff for Federal Superfund; 11 additional staff authorized for pre-remedial and PA/SI program. Entire hazardous waste program is RCRA oriented. All legal support handled by Department of Law, with four attorneys and one supervisor to handle all of DNR's work.

FUNDING

Hazardous Waste Trust Fund has a balance of about \$2.8M (9/91), funded from penalties and interest. Amount collected in FY91 was \$569K.

Virtually all hazardous waste activities are through RCRA and CERCLA EPA grants with some State funding.

Trust Fund may not be used for normal operating expenses and must be used only for mitigating environmental problems. Fund can be used for CERCLA match.

GEORGIA (continued)

ENFORCEMENT

State RCRA/HSWA corrective action provision is major authority used to obtain cleanups. Provision covers more than RCRA. Past or present generators, transporters and owner/operators who contribute to a release are liable.

Statute requires agency to seek consent order first. RCRA statute includes authority for site access, information gathering, subpoenas, administrative orders and injunctive actions. No lien authority or punitive damages. State does not take Fund-lead actions, all are paid for by RPs.

CLEANUP POLICIES AND CRITERIA

Water quality criteria. Groundwater cleanup to background, or drinking water standards in some cases. For soil, RP proposes standards; State has internal guidelines.

CLEANUP ACTIVITIES

All cleanups done under State's RCRA/ HSWA permit program. 80 RCRA permits with 75% required to do corrective action. About 40 are active.

PUBLIC PARTICIPATION

Statute requires consistency with Federal RCRA. Local officials must be notified of RCRA permit applications and a hearing held if requested.

FEDERAL/STATE PARTNERSHIP

CPCA, three SACAs, and three TAGs.

SITES

NPL sites	17
Proposed NPL	2
Identified sites	600 (CERCLIS)

KENTUCKY

[12/2/91]

STATUTE

Kentucky Rev. Stat. Ann. §224.876(13) (1980) establishes the Hazardous Waste Management Fund. Other sections of chapter 224 outline enforcement authorities. Also provides for a priority list and citizen suits.

STATE AGENCY

Natural Resources and Environmental Protection Cabinet, Division of Waste Management, Uncontrolled Sites Branch has funding for nine full-time professional staff plus two clerical staff for NPL sites, and 16 staff under PA/SI grant. Two attorneys in the Department of Law, Waste Legal Branch.

FUNDING

Hazardous Waste Management Fund has a balance of \$5M with \$2M collected annually from penalties/fines, cost recoveries, interest, generator fees and transfers from the Abandoned Nuclear Waste Site Fund.

There is a \$6M cap on the fund, with fees suspended until fund balance falls below \$3M.

Fund unavailable unless RPs unable to address site and there is imminent danger to both health and environment. Fund may not be used if Federal Superfund money is available, except in emergencies.

KENTUCKY (continued)

ENFORCEMENT

Legal authorities include administrative, information and site access orders, subpoena, injunctive action, liens, civil and criminal penalties.

Statute authorizes Cabinet to order cost recovery or compel performance by "any person responsible for release or threatened release of a hazardous substance."

State negotiates settlements, then, if settlement not reached, issues administrative orders. Enforcement efforts to date have focused on removals.

CLEANUP POLICIES AND CRITERIA

Either use risk assessment or cleanup to background. Site-by-site standards used in consultation with the Air and Water Divisions.

PUBLIC PARTICIPATION

No formal requirements but try to involve public as much as possible through public meetings.

CLEANUP ACTIVITIES

State actively involved in 100 sites.

Less than \$100K paid out last year, mainly for drum removals and cost sharing.

FEDERAL/STATE PARTNERSHIP

State negotiating SMOA. CPCA awarded in FY91. A CA on a PA/SI and one TAG awarded.

SITES

NPL sites	2
Proposed NPL	0
Identified sites	259 sites on a pre-CERCLIS list. 340 (on CERCLIS).

MISSISSIPPI

[12/2/91]

STATUTES

1. *Mississippi Solid Waste Disposal Act of 1974*, amended numerous times (most recently in 1990), Miss. Code Ann. §17-17-29(4) and (6); enables State to take response action but there is no specific Superfund law.
 2. Miss. Code Ann. §49-17-401 (1988) created a UST Trust Fund.
 3. Miss. Code Ann. §49-17-68 (1988) created the Pollution Emergency Fund.
 4. *Air and Water Pollution Control Act*, Miss. Code Ann. §17-49-1 *et seq.*, also enables response actions.
-

STATE AGENCY

Department of Environmental Quality, Office of Pollution Control, Hazardous Waste Division has a RCRA and CERCLA section. The CERCLA section has 15 employees. These positions are funded almost entirely by State general fund and Federal grants. Two attorneys from the AG's office handle all Department of Environmental Quality work.

FUNDING

The Pollution Emergency Response Fund was created in 1988 and has a balance close to \$200K (6/30/91). The State spent \$211,000 on emergency removals which it could not recover from PRPs (6/30/91). The Fund is authorized to receive money from civil penalties from the pollution regulatory programs, cost recovery, and any other sources. The Fund may be used to investigate sites, mitigate, abate, cleanup or remediate solid waste, air and water pollution. The State appropriates funds on a site-by-site basis for CERCLA match.

MISSISSIPPI (continued)

ENFORCEMENT

The Department must use its general enforcement authorities or its authorities in other regulatory statutes to compel RP action and for enforcement action. The Act provides that any person responsible for creating immediate need for remedial or cleanup action involving solid waste shall be liable for the cost of such action and that the Department may recover its cost of response. The Act gives Commission authority to regulate any contamination of the air and waters of the State.

State has RPs coming forward voluntarily signing "Consent Orders." *Ex parte* or Consent Orders issued at each stage of process outlining work to be done.

CLEANUP POLICIES AND CRITERIA

State considers background, detection limit, published standards (MCLs), health criteria, generic risk (10^{-6}), alternate concentration limits (ACLs), and Hazard Index to determine cleanup levels. State chooses highest of the above as cleanup standard.

PUBLIC PARTICIPATION

Policies require public comment period, direct mailings, and possible public meetings during remediation process. Local governments and governor notified when emergency order issued.

CLEANUP ACTIVITIES

93 sites in RI/FS stage.

11 site cleanup completions or no further action decisions since July, 1989.

44 sites RP-lead cleanups with active State oversight.

40-50 RP-lead where State will review final result.

\$200K was spent on cleanup activities during FY91.

FEDERAL/STATE PARTNERSHIP

State has a one-year SMOA, renegotiated yearly. State has CPCA, CA for PA/SI, MSCA for NPL sites plus IAGs with DOE and DOD. State has a DSMOA with DOD.

SITES

NPL sites	22
Proposed NPL	0
State Priority List	101
State sites	672
Sites listed in State Inactive Hazardous Waste Inventory	925 (includes NPL sites)

NORTH CAROLINA

[12/2/91]

STATUTES

1. *Inactive Hazardous Sites Response Act of 1987*, N.C. Gen. Stat. §§130A-310 through -310.13 (July 1987, amended June 1989, 1991), authorizes the Inactive Hazardous Sites Cleanup Fund and provides authority to order RPs to conduct cleanup and to recover costs.
2. *North Carolina Oil Pollution and Hazardous Substances Control Act of 1978*, N.C. Gen. Stat §§143-215.75 through 215.103 (first passed 1973) provides for Fund and authority to clean up releases similar to §311 of the Clean Water Act.
3. Section 306 of Solid Waste Management Laws, N.C. Gen. Stat. §130A-306, authorizes the Emergency Response Fund for emergency hazardous waste cleanup.

There are four provisions which govern the disclosure of hazardous substance contamination in property transfer: (a) Inactive Sites Response Act, N.C.G.S. §130A-310.8; (b) Solid Waste Management Laws, N.C.G.S. §130A-301; (c) Solid Waste Management Rule, 15 NACA 13B.0502; (d) Hazardous Waste Management Rule, 15A NCAC 13A.0009 and .0010 (40 CFR 264.119 and 265.119).

STATE AGENCY

Superfund Section of Solid Waste Management Division of Environment, Health & Natural Resources (DEHNR) has 25 positions (one attorney and one clerical are in AG) and administers the Inactive Hazardous Sites Cleanup Fund. The Emergency Response Fund is administered by the Hazardous Waste Section of the Solid Waste Management Division. Fourteen of the positions are funded by CERCLA for PA/SI, eight are State funded, and three are funded by a CPCA.

The Environmental Management Division and the Environmental Management Commission administer the Oil or Other Hazardous Substances Pollution Protection Fund (OOHSPPF) and the Oil Pollution and Hazardous Substances Control Act.

Administrative support is derived from State appropriations and Federal grants.

FUNDING

Inactive Hazardous Sites Cleanup Fund (IHSCF) has a balance of \$180K as of 9/91 and may be used for remedial actions, emergency responses, removals, and studies and design of responses. IHSCF funded by appropriations of \$100K FY87-88 and \$500K FY88-89 and cost recovery (no cases yet), penalties, and fees (but none have been established). No appropriations to the fund were made for FY90/91. Monies in the Emergency Response Fund above the \$500K cap go into IHSCF.

Oil or Other Hazardous Substances Pollution Protection Fund (§143.215.87) may be used for emergency responses, removals and actions at LUST sites. It is funded by cost recovery, civil penalties and fees (authorized).

Emergency Response Fund (§130A-306) has a balance of \$500K as of 10/91. It is funded solely by RCRA penalties and is capped at \$500K. Excess funds are transferred to the IHSCF.

NORTH CAROLINA (continued)

ENFORCEMENT

Secretary of DEHNR must seek voluntary action by RPs before issuing orders or taking direct action under the Inactive Hazardous Sites Response Act. Joint and several liability for oil or hazardous substance discharges. Definition of RP similar to CERCLA §107 with similar defenses. State must show danger to public health or environment and that its expenses were reasonably necessary to recover its costs.

Cap on liability of \$3M for implementation of RA program for RPs that volunteer. State has authority to issue orders for information, site access, and administrative orders for monitoring, analysis and emergency response. There is a general judgment lien provision. Civil penalties for the failure to comply with administrative orders.

CLEANUP ACTIVITIES

No current State lead cleanups.

In October 1990, \$64,800 was spent from the Inactive Hazardous Sites Cleanup Fund to remediate an arsenic site. Nothing was spent from the Emergency Response Fund last year.

CLEANUP POLICIES AND CRITERIA

Site-by-site. Groundwater standards used and are below detection limits for non-naturally occurring organics. Also use a health-based risk assessment, with an acceptable risk level of 10^{-6} .

PUBLIC PARTICIPATION

Statute requires Secretary of DEHNR to develop plan for public notice and local government involvement in RA program. Secretary must also notify and involve local board of health and health director. Notice and summary of RA plan published weekly for three weeks in local newspaper and copy of plan filed with register of deeds before approval. 45-day public comment period for State-funded cleanups, with public meeting at discretion of Secretary. Public participation requirements reduced for RP voluntary cleanup.

FEDERAL/STATE PARTNERSHIP

PA/SI CA effective 4/1/90. A CPCA and a SACA, and an MSCA is pending. State has a DSMOA. Two TAGS have been awarded.

SITES	
NPL sites	23
Proposed NPL	0
State list	88 (all sites with 0-28.5 HRS scores are placed on list)
Identified sites	425 (on CERCLIS)

SOUTH CAROLINA

[12/2/91]

STATUTE

Hazardous Waste Management Act (1980), South Carolina Code Ann. §§44-55-10 through -840 (S.C. Code Ann. §44-56-10-330 the more general cite), authorizes fund and provides for a priority list and the authority to take or compel action. Amended 1989.

STATE AGENCY

Department of Health and Environmental Control, Environmental Quality Control, Solid and Hazardous Waste Management Bureau has five divisions. The Site Engineering and Screening Division has two sections. The Site Screening Section, funded totally by a CA has nine staff who handle the PA/SI. The Site Engineering Section has seven staff, funded mostly by the State, who handle State and NPL sites. Legal support is located in the Office of the Commissioner. Eight attorneys are assigned to geographical districts to handle all environmental work.

FUNDING

Hazardous Waste Contingency Fund is umbrella for two (2) separate accounts, the permitted sites (RCRA) and uncontrolled sites (Superfund). The latter account comprises approximately 75% of the Fund. The unobligated fund balance in the uncontrolled sites part of the fund was \$10M and \$5.5M is obligated as of 7/91. 80-90% of revenues come from fees. Appropriations, interest, and cost recovery also contribute. Actions including emergency response, removals, studies and design, investigation, remedial action, O&M, and CERCLA match, but, excluding victim compensation, may be funded only after Federal or RP dollars are exhausted or unavailable.

SOUTH CAROLINA (continued)

ENFORCEMENT

Statute explicitly adopts CERCLA §107 and implicitly CERCLA in toto. To date, State has only sought negotiated agreements.

Statute requires Department to exhaust RP and Federal funds before using its own. Department procedure is to serve RPs notice with deadlines and inform EPA at same time.

CLEANUP POLICIES AND CRITERIA

Site-by-site decisions to be consistent with the NCP. Normally use MCLs for groundwater contamination and background for soil contamination.

CLEANUP ACTIVITIES

Three sites State funded in RI/FS stage; negotiating RP lead on another site. RPs voluntarily seeking consent decrees for several other sites.

One million dollars was spent and \$2.5M obligated in the fiscal year ending June 30, 1991.

PUBLIC PARTICIPATION

No formal requirements or informal provisions.

FEDERAL/STATE PARTNERSHIP

SMOA signed 8/88 covering primarily NPL sites. Currently being renegotiated to include language on all sites, primarily for emergency response. SACA, CPCA, and SMOA in place. Negotiating a DSMOA and ESMOA.

SITES	
NPL sites	14
Proposed NPL	0
State list	164; 3 in rulemaking stage for deleting from list
Identified sites	1000 sites on State suspected list

TENNESSEE

[12/2/91]

STATUTE

Tennessee Hazardous Waste Management Act of 1983 (amended 1986, 1988, 1989, 1990, 1991). Part I covers RCRA. Part II (Tenn. Code Ann. §§68-46-201 through -221) covers Superfund, authorizes the Hazardous Waste Remedial Action Fund, and provides authority to take or compel remedial actions. 1988 amendments require notice to register deeds for any site listed. 1991 amendment does not hold local governments liable if they take over a site involuntarily.

STATE AGENCY

Tennessee Department of Environment and Conservation (DEC), Division of Superfund (created 1/86) has four regional offices with a total of 53 staff authorized, 53 established, funding for 53; 39 are filled. State Superfund supports two attorneys in DEC and receives some AG attorney support on a cost reimbursement basis.

Administrative costs are funded out of Hazardous Remedial Action Fund and from Federal grants.

FUNDING

Hazardous Waste Remedial Action Fund has a balance of \$4.6M (6/91), with annual additions of \$2M. Fund is comprised mostly of fees on transporters and generators. Cost recovery, penalties and fines, and interest may also contribute.

Fund may be used for emergency response, site investigation, removals, remediation, studies and design, O&M, and CERCLA match.

TENNESSEE (continued)

ENFORCEMENT

Statute provides for strict and several liability and AG equitably apportions liability. The statute provides for a lien that is limited to marginal improvement in cost of land and does not have priority.

Commissioner of DHE is authorized to issue orders for information, access and remedial response, assess civil penalties, and impose punitive damages of up to 150% of the State's costs.

CLEANUP ACTIVITIES

722 PAs and 478 SIs have been completed for sites on State suspected list. Two-thirds of sites determined not to be a hazard to health and environment have been placed on inactive list. Remedial action of operable unit at one NPL site is near completion and 12 State-listed sites. No completed RAs at "significant" sites, numerous removals and containments.

Last fiscal year, \$1,812,743.19 was paid out from the fund for cleanup, staff salaries, expenses, emergency response and RI/FS.

CLEANUP POLICIES AND CRITERIA

No standards in statute. To the extent practicable, remedies are consistent with the NCP. Use State ARARs, seek compliance with environmental laws, protection of human health and environment and cost-effectiveness. Risk assessment used where no promulgated standards.

PUBLIC PARTICIPATION

Public meeting required at end of RI/FS stage for input in development of ROD. Rulemaking hearings must be held prior to site(s) being added or deleted from State site list.

FEDERAL/STATE PARTNERSHIP

DOD SMOA in draft; eight SACAs, CPCA and ESMOA in place.

REGION V

**Illinois
Indiana
Michigan
Minnesota
Ohio
Wisconsin**

SITES

NPL sites	37
Proposed NPL	0
State Inventory	37
Identified sites	1430 (some of which are on CERCLIS)

ILLINOIS

[12/2/91]

STATUTES

1. *Illinois Environmental Protection Act* (1970, amended 1983, 1984, 1985, 1986, 1987, 1988) establishes Hazardous Waste Fund and provides for strict liability, injunctive relief, civil and criminal penalties, cost recovery, and punitive damages.
2. *Responsible Property Transfer Act* (1988), Public Act 86-679, provides for environmental disclosure for real property transfers.

STATE AGENCY

The Division of Land Pollution Control (263 staff total) in the Illinois Environmental Protection Agency (IEPA) administers State's Clean Illinois program with 48 staff working on Clean Illinois. Included in the Clean Illinois program is the Remedial Projects Management Section which has three departments: state unit (four staff), immediate removal unit (four staff), and Federal sites unit (ten staff). Each unit expected to add three new staff for FY92. AG provides some legal support for agency in addition to the seven technical advisors in IEPA's Office of Legal Council.

The Illinois Pollution Control Board (IPCB) adopts all regulations to implement the Illinois Environmental Protection Act, including State contingency plan. IPCB also is only agency authorized to issue unilateral orders, but only after a hearing.

FUNDING

There is one source of funds for cleanup work: the Hazardous Waste Fund (HWF). Two funds used in the past, the Clean Illinois Fund and the Build Illinois Program, are no longer available for cleanups.

The HWF, with a balance of \$7.7M as of 6/30/91, receives 90% of the fees collected for transportation and disposal of hazardous wastes and monies collected in consent agreements. \$2.5M is collected each year and the Fund is capped at \$10M in unobligated funds. The HWF is primarily used for State work and for CERCLA match. A separate Hazardous Waste Research Fund is allotted the remaining 10% of fees. Fund can be used for emergency response, removals, studies and designs, remedial actions, site investigations, and CERCLA match. No more than \$1M can be used on any single incident without legislative appropriation.

ILLINOIS (continued)

ENFORCEMENT

State has authority to issue notices for information gathering and to enter sites; IPCB may issue unilateral administrative orders after a hearing. State is authorized to take injunctive action and may impose civil and criminal penalties. State may seek cost recovery and punitive damages. IEPA requires written notification of real estate transfers. State has strict liability, with joint and several liability assumed. State also has lien provision.

Five §4(q) notices have been issued during FY91 for immediate removals and voluntary cleanups. Approximately 75% of sites are handled by RPs.

CLEANUP ACTIVITIES

Three sites on State Remedial Action Priorities List have completed RAs. Of the approximately 1370 sites on State CERCLIS list, 95% have completed PA, 65% have completed SI, 25% require no further action. 12 RP cleanups were completed during FY91.

PUBLIC PARTICIPATION

Majority of Superfund sites and many RP-lead sites are assigned community relations coordinators from the Division of Land Pollution Control.

CLEANUP POLICIES AND CRITERIA

Cleanup objectives set on a site-by-site basis by two Agency committees. Initial standards are set by a technical committee. These standards are evaluated by an administrative management committee based on other site issues; this committee makes the final recommendation for cleanup standards. An ARARs manual has been published by State. ARARs include water quality criteria, MCLs/MCLGs, background, and risk assessments (if performed following Federal guidance). Risk levels below 1×10^{-6} are considered *de minimis* and levels above that are studied further. \$9.6M was spent on cleanup activities during FY91.

FEDERAL/STATE PARTNERSHIP

SMOA was finalized 9/91. CPCA FY89. Eight CAs. MSCA, DSMOA in effect.

SITES

NPL sites	32
Proposed NPL	0
State Inventory	No list yet; one under development pursuant to statute effective 7/1/89.
Identified sites	about 1500 (on CERCLIS)

INDIANA

[12/2/91]

STATUTES

1. *Indiana Hazardous Waste Act* (1980), *Environmental Management Act*, and *Hazardous Waste Land Disposal Tax Act* (1981), Indiana Code §13-7 *et seq.* and Ind. Code §§6-6-6.6-1 through -3, combine to authorize cleanup activities in the State. The statute was amended effective 7/1/89 to consolidate and clarify cleanup provisions, require development of a State scoring system, increase the tax that partially funds the cleanup Fund, and provide new authority to the Commissioner including authority for mixed funding consent agreements. The most recent amendment (1991) authorized Fund expenditures on sites contaminated with petroleum.
2. *Indiana Responsible Property Transfer Law*, Indiana Code §13-7-22.5, effective 1/1/90, provides for full environmental disclosure for transfers of real property that is listed on CERCLIS, contains a facility subject to sections 311 and 312 of SARA Title III, or contains a regulated UST.

STATE AGENCY

Project Management Branch in Office of Environmental Response in Department of Environmental Management. Two State cleanup sections, the Federal Superfund program and the immediate removal program have a total of 27 project managers and four supervisors. A technical support section with 13 staff serves both sections and LUST. Attorney General represents IDEM in all court proceedings, with 3 attorneys working on all cleanup issues. IDEM Office of Legal Counsel has three attorneys for all non-LUST cleanup work and three attorneys for LUST work.

FUNDING

Hazardous Substances Response Trust Fund (§13-7-8.7-1 through -6) is funded by taxes, penalties, cost recovery, punitive damages, gifts, interest, grants, and appropriations. Biennium beginning 7/1/91 legislature authorized \$5.2M out of a fund of \$18.4M (\$2.6M/year) to be spent entirely on site-specific activities. Of the \$5.2M authorized for biennium 1991-93, \$3.4M remains (9/91). \$3.2M designated for CERCLA match. Administrative costs come from State general fund and Federal grants. There is no cap on the Fund. Funds may be used for site investigations, studies and design, emergency response, removals, remedial actions, O&M, CERCLA match and actions at non-petroleum LUST sites, and pre-authorized mixed funding claims. Fund expenditures must be authorized by the Commissioner.

INDIANA (continued)

ENFORCEMENT

CERCLA §107 is adopted as liability standard--strict, joint and several. Commissioner has authority to issue orders for information, site access, and administrative orders. The State may also sue for injunctive relief, cost recovery, punitive damages, civil penalties (\$20,000/day) and criminal penalties. Commissioner authorized to enter mixed funding consent agreements. The majority of cases have been agreed orders. No cases have yet been decided by a court. Owners of sites must record restrictive covenant with County Recorder; and Commissioner determines if one is necessary to warn future buyer.

CLEANUP POLICIES AND CRITERIA

Statute requires consistency with NCP. Indiana Interim Groundwater Standards require MCLs where an aquifer is or may be a source of public drinking water. For soil cleanup or where MCLs are not required, State considers MCLs, cancer risk levels, background, non-cancer health risks, EPA guidelines, and exposure pathways. Risk assessment is essential.

Surface water and sediment cleanup levels are based on Indiana's Water Quality Criteria.

CLEANUP ACTIVITIES

39 non-NPL sites currently active. Majority are RP lead. Five NPL sites are State lead. Eight non-NPL Federal facilities. \$1.8M was spent on cleanup activities from 7/1/89 - 9/30/91.

PUBLIC PARTICIPATION

Policy is to include a 30-day comment period for final remediation decisions of NPL sites.

In practice, public meetings occur several times during the investigation and are increasingly supplemented with availability sessions in the communities.

FEDERAL/STATE PARTNERSHIP

SMOA expected to be signed 12/91. MSCA, CPCA, eight SACAs and seven CAs awarded. Eight Federal facilities identified in DSMOA (signed into effect 5/91).

SITES

NPL sites	78
Proposed NPL	0
State Inventory	2844
Identified sites	approx. 8500 (includes 6000 LUST sites)

MICHIGAN

[12/2/91]

STATUTE

Michigan Environmental Response Act ("MERA" or "Act 307"), Mich. Comp. Laws Ann. §§299.601, *et seq.*, (1982) (amended 1984 to allow Department of Natural Resources (DNR) to reimburse individuals that replaced own water supplies due to hazardous waste discharge), primarily intended to allow DNR to clean up abandoned hazardous waste sites. A 1990 amendment to Act 307 provides the State with enforcement, liability and cost recovery capabilities. Ten related pollution control acts supplement cleanup program authorities.

STATE AGENCY

Environmental Response Division in Department of Natural Resources leads cleanup and response work. Division has four cleanup programs, two of which are State-funded: Act 307 has 61 staff (110 authorized), Environmental Cleanup Bond Programs has 66 staff (76 authorized); and two of which are Federally-funded: Federal Superfund Support has 36 staff (41 authorized), and LUST has 35 staff, as authorized.

AG's office handles all legal work and the State program uses approximately 7.5 positions. AG files all enforcement and cost recovery actions. Michigan Department of Public Health replaces water supplies on contract with DNR.

FUNDING

Environmental Protection Bond Fund monies (~ \$387.3M in remaining authorized bonds) may be used for site investigation, studies and design, removals, emergency response, remedial actions, CERCLA match, grants to local government, O&M, and administrative costs (up to 6% of Bond Fund).

\$13.9M appropriated for Act 307 for FY92 including expected cost recoveries and penalties. Of the \$13.9M, \$6.9M is authorized for staffing, \$4.3M for court ordered settlements and judgements, \$1M for alternative dispute resolution, and the balance (~ \$1.7M) for projects. This fund may be used for all above activities except grants to local governments. The balance for Act 307 was \$10.7M at the end of FY91 (9/30). However, of that \$10.7M, only \$2.2M will carry forward to FY92.

MICHIGAN (continued)

ENFORCEMENT

State uses pollution regulatory statutes and appends MERA cost recovery claims.

Most RP lead response actions are negotiated with DNR. 832 of sites on State list have RP lead work.

Liens are authorized under the Hazardous Waste Management Act (regulatory statute).

State first negotiates with RPs then seeks Federal response and CERCLA funds prior to using State funds.

CLEANUP POLICIES AND CRITERIA

State has recently promulgated cleanup standards which place sites into one of the following categories:

Type A - cleanup to background;

Type B - risk-based cleanup protective of human health and environment;

Type C - less stringent than Type B, cases of low priority.

CLEANUP ACTIVITIES

Since 1984, cleanup activities have been funded at 732 sites (73% of all sites); alternate water supplies provided at approximately 468 sites; evaluations at approximately 214 sites; surface cleanups at approximately 235 sites; and final cleanups at approximately 50 sites. Of the 73% of sites undergoing cleanup activity, 60% are PRP lead and 13% State lead.

Approx. \$19.2M from the Environmental Protection Bond Fund was spent during FY91, and \$7.5M was spent from Act 307 and an additional \$3.2M was encumbered during FY91 (ending 9/30/91).

PUBLIC PARTICIPATION

Public hearing when State list updated. New rules provide public hearing during remedy selection. State models its system on CERCLA.

FEDERAL/STATE PARTNERSHIP

SMOA, CPCA, six MSCAs and 12 State lead SSCAs in effect. Three TAGs were awarded.

SITES

NPL sites	42
Proposed NPL	0
State Inventory	178 (includes some NPL)
Identified sites	447 (on CERCLIS)

MINNESOTA

[12/2/91]

STATUTE

Minnesota Environmental Response & Liability Act (MERLA), Minn. Stat. §§115B.01 - .24 (1983, amended 1984, 1985, 1986, 1987, 1990, and 1991), establishes State Fund and provides for strict, joint and several liability, injunctive relief, civil penalties, cost recovery, and citizen suits. The 1991 amendment clarified that lenders are not liable solely because they are an owner or because they have a capacity to influence the operation. Hazardous Substance Injury Compensation Fund, §§115B.25 - .37, is available for victim compensation.

STATE AGENCY

Minnesota Pollution Control Agency (MPCA), Groundwater and Solid Waste Division has three sections dealing with Superfund. The Site Response Section (65 staff) is primarily responsible and handles hazardous waste sites. The Program Development Section (15 staff) handles preliminary assessment and listing, and the Solid Waste Section (18 staff) handles sanitary landfills. All together there are 98 positions related to or funded by the cleanup program. Legal support is from three attorneys in the AG's office who work full-time for the State program.

FUNDING

MERLA Fund balance of \$19.1M (8/91), with an average of \$3.4M/yr collected through appropriations, cost recovery and penalties/ fines, waste end taxes, and interest.

The Fund may be used for remedial actions, site investigation, studies and design, removals, emergency response, victim compensation, grants to local government, O&M, and CERCLA match. MPCA must obtain Pollution Control Board approval (Determination of Inadequate Response) before expending funds. MPCA must seek RP or Federal funding before using State funds.

MINNESOTA (continued)

ENFORCEMENT

MERLA requires State to seek RP cleanups prior to use of MERLA Fund. All cost recovery and penalties/fines are returned to MERLA Fund. MERLA requires RPs to conduct MPCA requested response actions. State has had an estimated \$180M of RP cleanups conducted through 9/15/91. \$8.35M in costs recovered since 1983, and seven major lawsuits have been filed. RPs are conducting 126 of the 140 cleanups being performed.

CLEANUP ACTIVITIES

MPCA has lead for all but two NPL sites, with RI/FSs averaging 18-24 months and \$300-800K. RD averages 6-10 months and RA averages 12-18 months and \$1-8.5M. There have been response actions at 140 sites since 1983. 46 sites have RA completed with O&M in place. 13 sites have been delisted.

\$7M was spent on cleanup activities for FY91.

CLEANUP POLICIES AND CRITERIA

Cleanup decisions are made on a case-by-case basis using criteria similar to the NCP. The MPCA seeks a permanent cleanup and uses ARARs. A 10^{-5} cancer risk factor is used in the absence of applicable standards. Other standards include recommended allowable limits (RALs) for drinking water contaminants, water quality criteria, MCLs/MCLGs, EPA guidelines, cleanup to background and groundwater cleanup levels. Proposed soil cleanup levels are expected to be finalized late 1991. Permanent remedies are always the goal, and the strictest standards are applicable at each site.

PUBLIC PARTICIPATION

Entire process is public with notification of RPs and approval of all State actions at a public meeting of Pollution Control Agency Board.

As a matter of policy, a public relations officer is assigned to each site and MPCA conducts public meetings after completion of the RI/FS to explain the proposed plan.

FEDERAL/STATE PARTNERSHIP

SMOA reached 9/89. FY92 CPCA, preredial, and enforcement CA in place. CAs and SACAs awarded to date. DSMOA signed in 1991.

SITES	
NPL sites	33
Proposed NPL	0
State Inventory (high or medium priority on Ohio Masters Sites List)	700
Identified sites	1300

OHIO

[12/2/91]

STATUTE

Ohio Solid and Hazardous Waste Disposal Law, Ohio Rev. Code §§3734.01 - .9 (1980, amended 6/88) contains provisions for two cleanup Funds and enforcement authorities.

STATE AGENCY

Division of Emergency and Remedial Response in the Ohio Environmental Protection Agency (OEPA) administers the cleanup program. Program employs 154 staff and receives its funding from the cleanup fund, Federal grants and solid waste disposal fees.

Program has seven full-time staff attorneys, AG's office supplies three full-time Assistant AGs plus 2-3 FTEs (funded by OEPA).

FUNDING

State has two Funds available for cleanups. Hazardous Waste Cleanup Fund has a balance of \$13.4M (10/91). Approximately 20% is from cost recovery and 80% from solid waste disposal fees. The Fund is used for day-to-day activities. The Fund may also be used to build additional hazardous waste facilities and to buy sites. Hazardous Waste Facility Management Fund has a balance of \$21.2M, all from fees, although recovered costs may return to the Fund. This Fund is used for CERCLA 10% matching funds, State level-of-effort contracts and non-investigatory emergency response actions.

Approximately \$12M/yr in fees is collected and distributed between the two funds according to a sliding scale that considers where the waste was generated and disposed.

ENFORCEMENT

Statute is silent on liability standard; OEPA has argued for strict, joint and several liability but no decision in pending court case. Statute authorizes judicial search warrants for site access, administrative orders, injunctive actions, civil penalties, cost recovery, liens, criminal penalties in limited circumstances, and citizen suits. There is no provision for punitive damages.

The State is prohibited from taking action if USEPA is pursuing a claim.

State must attempt to reach a consent agreement with an owner/operator before OEPA may do the work. State does not mix State and Federal claims. State prefers to use CERCLA §107 for cost recovery.

CLEANUP POLICIES AND CRITERIA

Use promulgated standards (MCLs) wherever possible. Otherwise use risk assessments, water quality criteria, background, and EPA guidelines. Cumulative carcinogenic risk to be reduced to 10^{-4} to 10^{-6} , where 10^{-6} is point of departure. Also conduct ecological risk assessments. Cleanup criteria also based on best available treatment

PUBLIC PARTICIPATION

Limited statutory authority; general rules in Ohio Administrative Code apply; policy under revision. Current policy is to be consistent with NCP.

CLEANUP ACTIVITIES

140 sites being addressed (most in RI/FS stage), 17 sites are in RD/RA phase. Three sites are in O&M phase.

\$6.1M was spent on cleanup activities from the Hazardous Waste Cleanup Fund and \$1.6M from the Hazardous Waste Facility Management Fund during FY91.

FEDERAL/STATE PARTNERSHIP

SMOA, one CA for PA/SI work, CPCA, MSCA, and two TAGs in effect. Currently working on obtaining DSMOA.

SITES

NPL sites	39
Proposed NPL	0
State Inventory	62 (includes NPL)
Identified sites	4000 known waste disposal sites (+4500 LUST sites)

WISCONSIN

[12/2/91]

STATUTES

1. *Environmental Repair Statute*, Wis. Stat. §144.442 (1984). Enacted as part of the Groundwater bill, this section creates the Environmental Fund, requires a State ranking system and authorizes DNR to take emergency and remedial actions, recover costs and obtain RP lead cleanups.
2. *Abandoned Containers Statute*, Wis. Stat. §144.77 (1987), authorizes DNR to use money appropriated for EF to remove and dispose of abandoned containers that have hazardous substances.
3. *Hazardous Substance Spill Statute*, Wis. Stat. §144.76, authorizes DNR to use money appropriated for EF to respond to discharges of hazardous substances, requires development of a contingency plan.

STATE AGENCY

Within the Department of Natural Resources, the Energy and Remedial Response program has a staff of 90 and deals with Federal Superfund, LUST, State response and State tank programs. Of the 90 positions, 14 are dedicated to the State cleanup program known as the Environmental Repair program.

Legal support comes from three full-time attorneys in the DNR's Bureau of Legal Services and on a case-by-case basis from the AG's office (four attorneys).

FUNDING

The Environmental Fund (EF) had approximately \$8M appropriated for biennium ending 6/30/91, and will have \$7.8M for biennium ending 6/30/93. The \$7.5M in bonding not spent during FY91 will carry over into FY92. An additional \$15M was appropriated for FY92. As of 6/30/91 the balance was less than \$1M.

EF may be used for emergency response, site investigation, removals, O&M, CERCLA match, LUST match, studies and designs, and remedial action. Remedial action may be subject to prior administrative hearing and judicial review.

ENFORCEMENT

The State has strict, joint and several liability under the Abandoned Container and Spill Laws but under the Environmental Repair Statute the standard is explicitly not strict (it is joint and several). The burden of proof is on the State.

The State estimates a 75% rate of RP cooperation. When they don't comply the State tries to initiate a Federal Superfund or LUST action at the site. The State will use EF for a State-funded action when RPs are nonexistent or insolvent. State reports 98% RP cooperation at LUST sites.

CLEANUP POLICIES AND CRITERIA

Have promulgated groundwater standards in NR140 with a minimum enforcement standard and a prevention action standard. Use water quality criteria. Guidelines for soil contamination currently being promulgated in an administrative rule that addresses the entire cleanup process.

CLEANUP ACTIVITIES

Either State or Federal action underway at all but four of final NPL sites. Two sites being addressed under RCRA authority. Eight Fund-financed NPL sites. 40 State-funded projects ongoing.

\$8M was spent or encumbered for cleanup activities during the biennium ending 6/30/91.

PUBLIC PARTICIPATION

The State list is subject to public notice, 30-day comment period and hearing requirements. Remedial actions are subject to public notice, and a public hearing if requested, within 30 days. There have been no formal challenges by the public to State-funded RAs. All files open to public with limited confidentiality and enforcement exceptions.

FEDERAL/STATE PARTNERSHIP

SMOA under negotiation to cover remedial and site assessment actions. State received CAs covering three sites, site assessment CA, CPCA, LUST CA, and two SACAs covering 12 sites.

REGION VI

**Arkansas
Louisiana
New Mexico
Oklahoma
Texas**

SITES

NPL sites	10
Proposed NPL	0
State Inventory	7 (2 NPL)
Sites needing attention	101
Identified sites	351

ARKANSAS

[12/2/91]

STATUTES

1. The *Remedial Action Trust Fund Act (RATFA)* (Act 479 of 1985, as amended by Acts 380, 761 of 1987) establishes the Hazardous Substance Remedial Action Trust (HSRAT) Fund, which replaced the Hazardous Substance Response Trust Fund (enacted in 1983).
2. *Emergency Response Fund Act (ERFA)* (Act 432-F of 1985) establishes the Emergency Response Fund (ERF). Both RATFA and ERFA provide for proportional liability, civil and criminal penalties, treble damages, cost recovery, and "superlien" authority; and RATFA establishes a state priority list of hazardous waste sites.

STATE AGENCY

The Superfund Branch of the Hazardous Waste Division is located in the Dept. of Pollution Control and Ecology. The Branch is staffed by one employee, with legal support available from eight Dept. attorneys. A staffing freeze has limited program operations. For the FY92-93 biennium, the Superfund Branch has an increased staffing level of ten.

FUNDING

HSRAT Fund, with a balance of \$5.3M (10/91) derives primarily from annual fees (approximately \$600K/year) on hazardous waste generators within State or those accepting waste generated outside State for transport/storage/disposal. The Fund also receives revenues from penalties, and some other funding through appropriations, cost recoveries, interest and the Emergency Response Fund.

HSRAT Fund can be used for studies and design, removals, and remedial actions at State-listed sites, and for CERCLA match; but cannot duplicate CERCLA, and funded sites must be on the Site Priority List. 10% of the HSRAT revenues are deposited into the Environmental Education Fund.

The ERF is used only for emergency response action and is funded by civil penalties. It is capped at \$150K; funds accruing above this level are deposited in the HSRAT Fund.

ARKANSAS (continued)

ENFORCEMENT

RATFA provides State authority to issue administrative orders for information, site access, and remediation. Although injunctive action is not expressly provided for, State may proceed under RCRA-type law. RATFA authorizes civil and criminal penalties for violating the Act, making false statements, or violating an order. RATFA also provides for treble punitive damages, cost recovery, and "superliens." ERFA also provides for orders, treble damages, cost recovery and superliens. Action by the legislature in the 1990 legislative session impedes use of the superlien provisions, which, however, were not repealed.

CLEANUP ACTIVITIES

State has lead on one NPL site which is currently in RD phase.

\$180.00 was spent from the Hazardous Waste R.A.T.F., and \$155K was spent from the Emergency Response Fund on cleanup activities last year.

CLEANUP POLICIES AND CRITERIA

Air and water regulations, MCLs/MCGLs, risk assessments, EPA guidelines and background levels are all used as standards for hazardous waste cleanup.

PUBLIC PARTICIPATION

A public hearing is held prior to decisions to add or delete a site from the State priority list. Transcripts of public hearings and comments received on sites become part of administrative records. Public meetings and/or fact sheets are provided prior to major milestones on cleanup projects.

FEDERAL/STATE PARTNERSHIP

Arkansas has two MSCAs, eight SACAs, one CPCA, and zero TAGs.

SITES

NPL sites	11
Proposed NPL	0
State Inventory	637

LOUISIANA

[12/2/91]

STATUTES

Several chapters of the *Louisiana Environmental Quality Law*, La. Rev. Stat. Ann. Title 30 §§2001-2496 (1979), provide relevant authority. The *Hazardous Waste Control Law* (La. Rev. Stat. Ann. §§2171-2206), *Inactive and Abandoned Hazardous Waste Site Law* (La. Rev. Stat. Ann. §§2221-2226), and chapter 12 entitled *Liability for Hazardous Substance Remedial Action* (La. Rev. Stat. Ann. §§2271-2280), together establish several funds and provide for strict, joint and several liability; information-gathering; administrative order authority; injunctive relief; cost recovery; liens; and treble damages. Site access and civil and criminal penalties are provided by the Environmental Quality Law's general enforcement provisions.

STATE AGENCY

The Inactive and Abandoned Sites Division in the Department of Environmental Quality's (DEQ's) Office of Legal Affairs and Enforcement is the lead agency. The Division has 38 of its 46 authorized positions currently filled. One DEQ lawyer provides enforcement support. About 80% of the Division's \$5.7M budget is federally funded.

FUNDING

The primary cleanup fund is the Hazardous Waste Site Cleanup Fund (HWSCF). In 1991 the cap was increased to \$4M. The Fund's balance is \$2.2M as of 11/91. A portion of the taxes on hazardous waste generation as well as sums recovered through judgments and settlements are the sources of the HWSCF. Appropriations from general outlay are made only for specific capital expenditures for cleanups. The Fund can be used for emergency response, removals and remedial actions, studies and design, and O&M. DEQ must demand payment from PRPs once the work is done.

Two other funds are the UST Trust Fund and the Motor Fuels Underground Tank Trust. The UST fund is used for administrative costs associated with the UST program and UST cleanups. The Motor Fuels Trust can be used for certain UST response actions when the UST owner is in compliance with State law.

LOUISIANA (continued)

ENFORCEMENT

The State will negotiate a settlement with PRPs or issue a remedial demand order wherever possible. The State has administrative order and injunctive authority, cost recovery, liens, treble damages; and has strict, joint and several liability. The State has 2 leads at State NPL sites. One is an enforcement lead and one is a fund lead.

CLEANUP POLICIES AND CRITERIA

DEQ is required to select remedies, based on cost effectiveness, that reduce exposure or potential exposure so as not to pose any significant threat to public health or environment. DEQ makes substantial use of EPA procedures and guidance and aims for permanent remedies.

CLEANUP ACTIVITIES

Of the 23 completed RAs, 18 were conducted by PRPs, and 5 were State-funded.

26 PRP-lead cleanups are scheduled at an estimated cost of \$200M. An additional 154 site cleanups are expected, at an average cleanup cost of \$12-15M per site. From HWSCF, \$1.2M was spent or encumbered as of 11/91.

PUBLIC PARTICIPATION

A public comment period is required for closure plans when DEQ proposes to treat, store, or dispose of hazardous wastes at abandoned sites. At complex sites, DEQ institutes community relations programs that include regular public meetings. Prior to concluding settlement agreements, DEQ makes them available to the public and holds public meetings.

FEDERAL/STATE PARTNERSHIP

In 1991, Louisiana has one SMOA, one MSCA covering seven sites; one site-specific CA; nine SACAs incorporated into MSCA; one DSMOA; and 4 TAGs.

SITES	
NPL sites	10
Proposed NPL	0
State Inventory	600
Identified sites	220

NEW MEXICO

[12/2/91]

STATUTES

1. *Hazardous Waste Emergency Fund*, N.M. Stat. Ann. 74-4-8 within *Hazardous Waste Act*, N.M. Stat. Ann. 74-4-1 to 74-4-13 (1988) provides Funds for removals, emergencies, and State CERCLA match and certain enforcement authorities.
2. *Water Quality Act*, N.M. Stat. Ann. 74-6-1 *et seq.* provides additional enforcement authorities.

STATE AGENCY

Within the Environment Department (NMED), the Remediation Section and the Superfund Section of the Groundwater Protection and Remediation Bureau have six and ten staff respectively that work on Superfund, remediation and corrective action; 15 other ED staff also work on the program.

The ED General Counsel provides legal support with ten attorneys. Approx. 1.5 FTE of legal support work on hazardous waste cases.

FUNDING

Hazardous Waste Emergency Fund funded by appropriations, bonds, cost recovery, and penalties and fines. Balance in the Fund approx. \$191K (10/91). No cap on the Fund. Penalties and fines are the only continuing source of funds. The Fund is replenished as amounts are obligated or spent.

Fund can be used for emergency response, site investigation, studies and design for emergency and removal response, State CERCLA match, and remedial actions pursuant to court action. No State long-term cleanups.

NEW MEXICO (continued)

ENFORCEMENT

Enforcement authorities include orders for site access and information, administrative and consent order authority, injunctive actions, civil penalties and cost recovery authority.

Statutory standard interpreted as joint and several. No cases litigated to date.

Preferred enforcement method includes sending notice of violations with a time period for compliance and a proposed penalty or injunction.

CLEANUP POLICIES AND CRITERIA

Uses hazardous waste cleanup standards, ground-water standards, water quality criteria, and MCLs. State also uses 10^{-6} additional lifetime cancer risk in deciding cleanup levels.

CLEANUP ACTIVITIES

One State-lead NPL site (not using State funds); most State fund monies are currently used for short-term emergency responses, as well as the State match for NPL cleanups. In FY91, \$90K was spent and \$125K was encumbered from the HWEF on cleanup.

PUBLIC PARTICIPATION

State follows CERCLA/NCP procedures at NPL sites. Settlement agreement process includes public participation.

FEDERAL/STATE PARTNERSHIP

New Mexico has one SMOA, one MSCA, one CPCA, one SSCA, one DSMOA, and one TAG.

SITES

NPL sites	10
Proposed NPL	0
State Inventory (GAO)	30

OKLAHOMA

[12/2/91]

STATUTES

1. *Controlled Industrial Waste Disposal Act (CIWDA)*, Ok. Stat. Ann. Title 63, Article 20, §1-2001 through 2014.
2. *Controlled Industrial Waste Fund Act (CIWFA)*, §1-2015 *et seq.*

These are RCRA-type laws that potentially could be used for abandoned sites that threaten public health.

STATE AGENCY

The Department of Health's Solid Waste Management Service has seven staff members working full-time on Superfund. Legal support is provided by one Department attorney working full-time on Superfund.

Administrative costs are paid through CAs, CPCAs, and SACAs.

FUNDING

Controlled Industrial Waste (CIW) Fund, with balance of \$60K (10/91), is derived primarily from RCRA-type permit fees. Funds may be transferred from Public Health Special Fund. Fund balance is not obligated most of the time.

CIW Fund can be used for emergency response, removals at abandoned sites, CERCLA match, monitoring, and assistance to counties and municipalities.

OKLAHOMA (continued)

ENFORCEMENT

Orders for site access are provided under general authorities granted to the Department of Health. The State has authority to issue subpoenas, administrative orders, and consent orders under a general procedures law.

CIWDA authorizes injunctive action and both civil and criminal penalties for RCRA-type hazardous waste violations. No cost recovery except under Federal CERCLA.

CLEANUP POLICIES AND CRITERIA

Air and water cleanup levels are determined on a site-by-site basis. Oklahoma has promulgated guidance for water quality criteria and risk assessments, which are contaminant specific but usually fall in the range of 10^{-5} to 10^{-6} .

CLEANUP ACTIVITIES

RA completed at one NPL site under the direction of State Water Resources Board, and one NPL site under direction of the State Health Department. RA 50% complete at another RP-lead NPL site under supervision of State Health Department. In FY91, \$15K from the CIWF was spent on cleanup.

PUBLIC PARTICIPATION

No formal requirements or informal provisions.

FEDERAL/STATE PARTNERSHIP

Oklahoma has one Lead Agency CA, one CPCA, one MSCA, eight SACAs, and three TAGs. Oklahoma is in the process of developing a SMOA.

SITES

NPL sites	25
Proposed NPL	0
State Inventory	38
Identified sites	over 1000

TEXAS

[12/2/91]

STATUTE

The *Texas Solid Waste Disposal Act*, Tex. Health & Safety Code Ann. Art. 4477-7, was amended in 1987 to establish the Hazardous Waste Disposal Fee Fund (Fund 550). In 1989 the statute was substantially amended to strengthen the Fund program and its enforcement provisions. Texas also has a Spill Response Fund, established under the Hazardous Substances Spill Prevention & Control Act, Texas Water Code §26.261 *et seq.* (amended 1983, 1985).

Texas Health & Safety Code Ann., Chap. 361, Subchap. F, was amended in September 1991 to establish the Hazard Ranking System as an inventory mechanism for the Texas Superfund Priority List.

STATE AGENCY

Texas Water Commission, Hazardous & Solid Waste Division, Contract & Remedial Activities Section--38 positions as of 10/91. There are five staff devoted to the State list Superfund program; the remainder work on NPL and pre-remedial programs, and LUST. Commission legal staff and three attorneys with the Attorney General's office provide enforcement support as needed. The Fund covers administrative costs for the State list Superfund unit.

FUNDING

Fund 550 has a balance of \$29.5M (9/91), and is funded by fees on hazardous waste disposal, and two new fees (1991 legislature) on lead acid batteries (\$2.0/6 volt; \$3.00/12 volt) and motor oil (5¢/qt.). The Fund also receives cost recoveries, penalties and interest on late fees. Revenues are approximately \$20M annually beginning 1/92.

Fund 550 can be used for site investigations, studies and design, removals, emergency responses, remedial actions, CERCLA match, O&M and administrative costs.

The Spill Response Fund has a balance of \$300K (9/91). It receives appropriations, and fines and penalties under the Texas Water Code. It is capped at \$5M, exclusive of fines and penalties. Spill Response Fund has limited use for removals, emergency response and threatened or actual discharges to waters or groundwaters of the State.

ENFORCEMENT

Comprehensive order and injunctive authority, civil penalties, cost recovery, liens, *de minimis* settlement, mixed funding, double damages are available to State. Liability is joint and several unless proved by preponderance of the evidence to be "divisible."

Commission issues a notice of proposed listing of the site and gives 90 days for PRPs to offer to do RI/FS and 60 days thereafter to negotiate agreed order; if not, then RI/FS is financed by State Fund. After RI/FS is completed, the Director proposes a remedy, solicits public comment and holds a meeting. PRP has 60 days after meeting to offer to perform remedy, and 60 days to negotiate agreed order. If not, then Commission lists the site and issues the order.

CLEANUP POLICIES AND CRITERIA

Remedy based on "the lowest cost alternative that is technically feasible and reliable and which effectively mitigates and minimizes damage to and provides adequate protection of public health and safety or the environment." The Commission may approve remedial action that does not meet ARARs in certain circumstances, including--for State-funded cleanups only--where ARARs will not provide a balance between public health and safety vs. need to conserve Fund for use at other sites "taking into account the relative immediacy of the threats."

Texas is preparing to adopt rules that apply these standards for State and Federal cleanups and RCRA corrective action.

Texas is also proposing rules to establish a risk range between 10^{-4} to 10^{-6} for carcinogens.

CLEANUP ACTIVITIES

Of seven pre-1989 administrative orders on State-listed sites, PRPs at four have complied and are doing RI/FS. Three have pending appeals.

There are eight negotiated PRP cleanups at State sites.

As of 7/91, \$10M was encumbered from Fund 550. During FY91, which ended 8/31/91, \$31M was spent from Fund 550, of which \$26M was reimbursed by EPA. Approximately \$5M in State derived fund money was spent last year.

PUBLIC PARTICIPATION

Public notice and comment required in order to list a site on the Texas Superfund Registry. Public meetings are required on sites proposed for the Registry, and prior to remedy selection.

FEDERAL/STATE PARTNERSHIP

Texas has two MSCAs, one SMOA, one CPCA, one DSMOA, probably at least 1 SACA, and 4 TAGS.

REGION VII

**Iowa
Kansas
Missouri
Nebraska**

SITES

NPL sites	20
Proposed NPL	1
State list	64 (plus 20 proposed) (includes NPL sites)
Identified sites	454 (on CERCLIS)

IOWA

[12/2/91]

STATUTES

1. *Iowa Environmental Quality Act*, Iowa Code ch. 455B (1972, amended 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1991). Significant amendments concerning cleanup authority for abandoned and uncontrolled sites enacted in 1979, 1981, and 1987. 1984 amendment establishes Hazardous Waste Remedial Fund.
2. *Iowa Groundwater Protection Act*, Iowa Code ch. 455E (1987), requires procedures and establishes criteria for cleanup.
3. *Groundwater Hazard Documentation Law*, Iowa Code ch. 558.69 (1987, amended 1988), establishes disclosure requirements for real property transfers.

STATE AGENCY

A subdivision of the DNR's Solid Waste Section is connected with the State Superfund program. It is responsible for enforcement/remedial activities and the Registry of Hazardous Waste or Hazardous Substance Disposal Sites. Staff is 9.75 FTEs. Legal support is provided by DNR attorneys for administrative actions; AG's office institutes all legal proceedings. Administrative costs covered by HWR Fund, EPA grants, and Oil Overcharge Fund.

FUNDING

Hazardous Waste Remedial (HWR) Fund balance of \$314K (7/91) with \$154K/yr collected primarily through fees on the transport, treatment, and disposal of hazardous waste.

HWR Fund can be used for administration, site investigation, emergency response, removals, studies and design, remedial actions, O&M, CERCLA match, and development of alternatives to land disposal. 75% of the Fund must be used for remediation at non-CERCLA sites and for CERCLA cost share.

IOWA (continued)

ENFORCEMENT

Liability is strict, joint and several. The State must try to negotiate a settlement with RPs prior to using Fund monies for cleanup. The State can issue orders and seek injunctions against RPs to clean up sites. Although the State cannot impose civil penalties for RP failure to clean up, it can collect treble damages for willful failure to clean up.

Penalties are available for violations of air and water pollution laws.

CLEANUP POLICIES AND CRITERIA

Cleanup decisions are made on a site-by-site basis pursuant to regulations. Specific regulations provide cleanup goals for groundwater and for soils and surface water in order to protect groundwater. Action levels established requiring hierarchy of choices. Risk assessment used to help determine applicable cleanup standards.

CLEANUP ACTIVITIES

Approximately 30 RP cleanups are either completed or ongoing for non-NPL State sites.

PUBLIC PARTICIPATION

Must provide technical advice and assistance to political subdivisions and to other persons upon request.

FEDERAL/STATE PARTNERSHIP

MSCA for preremedial program. SACA for multiple sites, and CPCA.

SITES

NPL sites	11
Proposed NPL	0
State inventory	412

KANSAS

[12/2/91]

STATUTE

Environmental Response Act (ERA), K.S. Ann. §65-3452 et seq. (1988), amends Kansas' hazardous waste law, enacted 1981 and amended 1984 and 1985. The Act established the Environmental Response Fund (ERF) which replaced the Hazardous Waste Cleanup Fund and the Pollutant Discharge Cleanup Fund, and provided enforcement authorities for hazardous substances as well as hazardous wastes. As of 1990, the Water Plan Special Revenue account became the primary fund. It is currently used predominantly for the CERCLA match. The ERF is primarily used for State sites and emergency response.

STATE AGENCY

Kansas Department of Health and Environment's Bureau of Environmental Remediation (BER) is responsible for Federal and State Superfund cleanups, LUST, and emergency response. 35 of its 46 employees are assigned to Superfund duties at least part-time, in addition to two Department lawyers who work on Superfund. Administrative costs are covered by appropriations from the State's general Fund.

FUNDING

Kansas maintains four funds. The Water Plan Special Revenue-Contamination Remediation account is the currently the primary cleanup account. The account has received transfers of \$2M in both FY91 and FY92. The funding source is fees charged to water users and some carryover money from the Economic Development Initiative Fund (funded by Lottery receipts). The account is used for studies and design, removals, emergency response, remedial actions, CERCLA match and O&M.

The Environmental Response Fund contains approximately \$550K of which \$300K is allocated to emergency response, non-specific sites. The remainder is allocated to specific sites. Annual additions vary and consist of appropriations and cost reimbursements.

The Hazardous Waste Perpetual Care Trust Fund contains \$122K (7/90) with annual additions of \$10K. It is designed primarily for activities at RCRA facilities, which pay fees to support it. However, up to 20% of the Fund may be used for emergencies at facilities closed prior to 1981.

The State also has a Petroleum Storage Tank Release Trust Fund providing financial assurance for corrective actions by operators of underground petroleum storage tanks. This fund is supported by a fee on petroleum products other than aviation fuel.

KANSAS (continued)

ENFORCEMENT

The ERA authorizes the State to issue orders and injunctions against RPs to effect site cleanups. Civil penalties for violation of an ERA order are not available, however. Penalties are available under RCRA, nuisance, or water laws; and State can use these authorities for enforcement (including cleanup of groundwater and soil).

CLEANUP POLICIES AND CRITERIA

BER uses groundwater cleanup target concentrations which the Bureau of Water has established. Groundwater regulations are under development. State uses EPA guidelines and other standards.

CLEANUP ACTIVITIES

RP investigations, remedial design or remedial actions are underway at 88 sites, and post-cleanup monitoring is occurring at 22-25.

PUBLIC PARTICIPATION

No formal requirements or informal procedures. The State generally follows the National Contingency Plan public participation procedures. State is developing a contingency plan which will include guidelines on community participation.

FEDERAL/STATE PARTNERSHIP

State has CPCA, one MSCA, one pre-remedial program grant. It has continuing CAs for four sites, and SACAs for nine sites.

SITES

Final NPL sites	22
Proposed NPL	0
State list	58
Identified sites	1250

MISSOURI

[12/2/91]

STATUTE

Missouri Hazardous Waste Management Law, Mo. Rev. Stat. §§260.350 - 260.552 (1977, amendments in 1980, 1983, 1985, 1987, 1988) authorizes Fund and provides for strict liability, site access, administrative order authority, civil and criminal penalties, and punitive damages. Legislation passed in 1990 (S.B. 530) provided additional authorities, funding, and personnel. The legislation was geared to the State's solid waste program and has not bolstered resources in the State's superfund section.

STATE AGENCY

Department of Natural Resources (DNR), Division of Environmental Quality, Hazardous Waste Program has three sections: Superfund Section, Hazardous Waste Section, and an Enforcement Section that handles only RCRA sites. The State's Superfund Section has 21 technical and administrative staff. About ten lab technicians are located in the Environmental Services Program, which handles much of the waste management field work. Three attorneys in the Department are available for the Division of Environmental Quality. The AG's office handles all litigation.

FUNDING

The Hazardous Waste Remedial Fund has a balance of \$5.3M (9/24/91) primarily provided by taxes on hazardous waste generators based on tonnage and the method of handling waste. There is a \$1.5M/yr cap on this tax. Fees on landfilled waste also contribute, though the amount is down to about \$150K/yr because of increasingly strict land restrictions. Cost recovery, penalties/fines, donations, and appropriations are all potential contributors.

The Fund may be used for emergency actions, removals, studies and design, and remedial actions. It may also be used for the non-Federal share of O&M costs and to meet the State's CERCLA match. The Fund can be used for health studies, acquisition of property, and to study the development of a hazardous waste facility in the State.

MISSOURI (continued)

ENFORCEMENT

State seeks RP cleanup first. If RPs are recalcitrant or insolvent, and if site is small, the State will fund removal-type actions. If the cleanup is costly, the State will try to use EPA authority and funds. The State has had substantial success in convincing PRPs to conduct cleanups.

CLEANUP POLICIES AND CRITERIA

The Department sets standards on a site-by-site basis in consultation with the Dept. of Health and using published toxicological data from ATSDR and other sources.

CLEANUP ACTIVITIES

To date DNR has completed approximately 298 PAs, 155 SIs. There are 26 ongoing cleanups in State including work at NPL sites, RCRA closures, EPA removals, two State-funded cleanups (basically drum removals), and 16 RP cleanups.

Six of 22 NPL sites are State lead, and the State plans to take the lead on new sites added to the NPL.

PUBLIC PARTICIPATION

Annual meeting required to report status of hazardous waste program to public. Public has access to information collected under various authorities, unless it is a trade secret or otherwise exempted from disclosure. Local governments must be notified of sites in their jurisdiction and sent a copy of the registry.

FEDERAL/STATE PARTNERSHIP

Draft SMOA, two MSCAs, one CPCA, one TAG, and a number of CAs and SACAs.

SITES

NPL sites	6
Proposed NPL	2
Identified sites	334 (on CERCLIS)

NEBRASKA

[12/2/91]

STATUTE

Nebraska Environmental Protection Act (Neb. Rev. Stat. §81-1501 through §81-1533) does not cover Superfund sites specifically. However, State uses Title 118 of its regulations, promulgated under §81-1505, to prohibit pollution of groundwater and set standards for cleanup.

STATE AGENCY

The Superfund unit of the Hazardous Waste Section (Department of Environmental Control) has five professional staff; three support staff also work within the Section. Legal support is provided by Department attorneys and two attorneys from AG's office who work with the Department. Administrative support costs are covered by CORE grants and EPA funding.

FUNDING

No Superfund.

NEBRASKA (continued)

ENFORCEMENT

Title 118 authorizes the State to issue administrative orders and injunctions against RPs generating groundwater pollution. The State may also seek judicial civil penalties. Citizen suits may be pursued against solid waste disposal violations in cities of 1st (largest) Class. Liability standards are not specified in statute.

CLEANUP POLICIES AND CRITERIA

Cleanup standards assessed on site-by-site basis. Title 118 sets standards for groundwater cleanup. MCLs/MCLGs and other toxicological information are also used.

CLEANUP ACTIVITIES

State has one State lead at Well M3 subsite of Hastings NPL site. Funding for State share of RD/RA is expected to be through State appropriation.

PUBLIC PARTICIPATION

Title 118 requires RP to submit Remedial Action proposal based on "detailed site assessment." Public notice of the proposal is given by newspaper and radio, with copies available in public libraries. A 30-day comment period and any requested hearings run prior to final review.

FEDERAL/STATE PARTNERSHIP

CAs covering seven sites and five SACAs. CPCA and MSCA awarded.

REGION VIII

**Colorado
Montana
North Dakota
South Dakota
Utah
Wyoming**

SITES

NPL sites	16
Proposed NPL	0
Identified sites	420 sites (CERCLIS)

COLORADO

[12/2/91]

STATUTES

1. *Hazardous Substances Response Fund*, Colorado Rev. Stat. Section 25-16-101 *et seq.*, 1985 as amended, provides funds for State CERCLA match, some administrative costs, and some site-specific future costs.
2. *CERCLA Recovery Fund*, Colorado Rev. Stat. Section 25-16-201, 1985 as amended, provides an account for natural resource damages.

STATE AGENCY

Within the Office of Environment of the Department of Health, the Hazardous Materials and Waste Management Division contains three sections with Superfund staff in each: (1) Remedial Programs with 15 staff working on Superfund; (2) Hazardous Waste Control (RCRA type program) with two staff working on Rocky Flats cleanup and; (3) Solid Waste and Incident Management with two staff working on PA/SI and emergency response. AG's office provides legal support with 14 staff handling natural resource damages litigation.

FUNDING

Hazardous Substances Response Fund had a balance of approx. \$11M as of 8/91. The Fund is collected from solid waste disposal fees (approx. \$2.6M/yr) and site-specific settlement costs. The fund is used for CERCLA match, site investigation, 2.5% for administrative costs, and site-specific operations and maintenance costs. There is no cap on the Response Fund, but it will sunset on Dec. 31, 1994.

The Natural Resources Damages Trust Fund receives revenues for natural resource damages and is available for natural resource restoration and enhancement.

COLORADO (continued)

ENFORCEMENT

State's cleanup fund statute contains no enforcement authorities. Colorado may use authority under other statutes (e.g., Water Quality Control Act and Hazardous Waste Management Act) for cleanup of some sites. The AG has filed seven CERCLA natural resource damages lawsuits, of which three have been settled with remedial action underway. Two others have received favorable court rulings, one has joint agreement with RP for RI/FS and one is being addressed under Federal Superfund. State has used its hazardous waste law at Rocky Flats and Rocky Mountain Arsenal; no other enforcement has taken place at inactive or abandoned sites.

CLEANUP ACTIVITIES

State has the lead on one NPL fund-lead cleanup, and various operable unit cleanups at other NPL sites that are not fund-lead. Approximately \$10M from the HSRF was either spent or obligated as of 8/91. Approximately \$10M from the HSRF was either spent or obligated as of 8/91.

CLEANUP POLICIES AND CRITERIA

Cleanup standards are determined on a site-specific basis, using State ARARs and risk assessment where applicable.

PUBLIC PARTICIPATION

No formal public participation requirements. AG follows NCP procedures under natural resource damages cases.

FEDERAL/STATE PARTNERSHIP

A SMOA has been signed. State has received 1 MSCA, 2 SACAs, 1 CPCA and 5 TAGs for FY91.

SITES	
NPL sites	8
Proposed NPL	0
State Inventory	227 (includes NPL sites)
High Priority sites on State List	25
Identified sites (CERCLIS plus 15 petroleum sites)	227

MONTANA

[12/2/91]

STATUTES

1. Until 5/10/89, the law in effect was the *Environmental Quality Protection Fund Act*, Mont. Code Ann. §§75-10-701 to -715 (1985), which provided for strict liability, judicial civil penalties, punitive damages, and cost recovery.
 2. The *Montana Comprehensive Environmental Cleanup and Responsibility Act* (CECRA) was passed by the legislature and signed by the governor 5/10/89. CECRA provided for the following additional authorities: joint and several liability, information gathering and site access, subpoena and administrative order authority, administrative civil penalties, liens, and administrative condemnation power.
 3. 1991 Amendments to CECRA added requirements for public notice, financial assurance for longterm operation and maintenance, and new definitions of "emergency responder" and "hazardous materials incidents." Mont. Code Ann. §§75-10-711, 713, 716-717, 719, 721, 724.
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STATE AGENCY

The Superfund Program of the Solid and Hazardous Waste Bureau in the Montana Department of Health and Environmental Sciences (MDHES) has 25 people, mostly funded through EPA cooperative agreements. Staff includes three special assistant attorneys general assigned to the agency.

FUNDING

Although the Environmental Quality Protection Fund Act was enacted in 1985, funding was not appropriated until 1987 for the 1989-91 biennium. The fund balance as of 5/91 was \$1M. Funding will come from a trust fund that collects taxes on natural resource extraction, with additional funding expected from cost recovery, penalties, and appropriations. The tax and other sources are expected to generate \$250K per year.

The Fund can be used for emergency response, removals, remedial actions, and investigations. Funding for State CERCLA match and actions at LUST sites are provided by other statutes.

In addition, \$10M in bonds are authorized for the Hazardous Waste/CERCLA Special Revenue Account, although no bonds have been issued.

MONTANA (continued)

ENFORCEMENT

Montana Department of Health and Environmental Sciences (MDHES) is required to make a good-faith effort to have RP clean up prior to using the Fund. Money obtained from cost recovery and civil penalty assessments are returned to the Fund. The State can choose to issue a unilateral order, negotiate a consent order, institute a civil action, or clean up a site using State funds.

CLEANUP ACTIVITIES

MDHES has issued five negotiated orders for RI/FSs. It has issued four unilateral orders for conduct of RI/FS and one unilateral order for an emergency cleanup. In addition, the DOD has completed cleanup at three sites pursuant to a negotiated order. From the EQPFA \$500K was spent and \$290K obligated as of 5/91.

CLEANUP POLICIES AND CRITERIA

CECRA requires cleanup that assures present and future protection of public health, safety and welfare, and the environment and that is consistent with all applicable and well-suited environmental requirements, criteria, and limitations. In addition, the State is required to select cleanups that use permanent solutions, are cost-effective, and that use alternative treatment technologies or resource recovery technologies to the maximum extent practicable. Site-specific cleanup criteria may also be imposed.

PUBLIC PARTICIPATION

CECRA requires public notice of administrative orders and consent decrees. New amendments now require notice to local governing bodies and city commissioners and, at their request, a public meeting must be held.

FEDERAL/STATE PARTNERSHIP

SMOA development is being considered. CPCA in FY88, FY89, FY90, and FY91. One MSCA; three other CAs for individual site work. Three TAGs awarded.

SITES

NPL sites	2
Proposed NPL	0
Identified sites	3

NORTH DAKOTA

[12/2/91]

STATUTES

North Dakota does not have its own State Superfund law. Its *Hazardous Waste Management Act* (HWMA), N.D. Cent. Code §§23-20.3-01 to -10 (1981, amended 1983, 1987 and 1991) provides some authority that can be used in conjunction with cleanups, but it is limited. Its *Water Pollution Control Law*, N.D. Cent. Code §61-28-01 *et seq.*, provides most enforcement authority.

A bill enacted by the 1989 legislature and effective 7/1/89 created the Environmental Quality Restoration Fund. N.D. Cent. Code §§23-31-01 to -03. This fund provides cost recovery authority but no liability standard, and it applies to all environmental programs.

STATE AGENCY

The lead agency is the Division of Waste Management, in the Department of Health & Consolidated Laboratories' Environmental Health Section. There are five staff in the Hazardous Waste Program within the Division. The Division's legal support is an Assistant Attorney General assigned to the Department who works on all environmental programs.

FUNDING

The Hazardous Waste Program operates on appropriated funds and RCRA grants.

The Environmental Quality Restoration Fund will receive cost recovery monies and contributions from settlements. The fund may be used for emergency response, removals, remedial action, and O&M, possibly studies and design, and administrative expenses. The fund balance is \$59K (10/91).

NORTH DAKOTA (continued)

ENFORCEMENT

The Water Pollution Control law, which protects surface water and groundwater, and which governs activities that may pollute such water, is the primary enforcement statute. It authorizes administrative orders, injunctive relief, and civil and criminal penalties.

The HWMA authorizes administrative orders, injunctive relief, civil and criminal penalties.

CLEANUP POLICIES AND CRITERIA

Standards are determined on a site-by-site basis. Federal guidelines will be used where applicable.

CLEANUP ACTIVITIES

Most of the CERCLIS sites have undergone PAs and SIs. Three sites are still being evaluated for possible action.

PUBLIC PARTICIPATION

The Division notifies local officials with information about a site. Local communities can become involved in site activities.

FEDERAL/STATE PARTNERSHIP

No agreements.

SITES

NPL sites	3
Proposed NPL	1
Identified sites (includes ~20 Native American Reservation sites, which the State cannot act on)	73 (on CERCLIS)

SOUTH DAKOTA

[12/2/91]

STATUTES

1. South Dakota's *Regulated Substance Discharge Law*, S.Dak. Codified Laws Ann. §§34A-12-1 to -15 (enacted 1988, amended 1989), establishes a cleanup fund and provides for strict liability, administrative order authority, injunctive relief, cost recovery, and liens.
2. The *Hazardous Waste Management Act*, S.Dak. Codified Laws Ann. §§34-11-1 to -23 (1983, amended most recently in 1988), provides for civil and criminal penalties, information orders, and site access.

STATE AGENCY

The Department of Environment and Natural Resources is the lead agency. State activities have been PAs, and supporting EPA in the Superfund process which are performed with EPA funding. The Division of Environmental Regulation, Groundwater Quality Program has 2 FTEs dedicated to these activities.

The Attorney General's office provides legal support as needed.

FUNDING

The Regulated Substances Response Fund has a balance of \$976K. Current funding sources are penalties, cost recovery, and interest. The legislature authorized a one-time transfer of \$350K from the Petroleum Release Compensation Fund (UST Fund) to the fund in 1989. A temporary fee increase on pesticides also provided \$150K in earlier years.

The fund may be used for administrative activities, emergency response, removals, investigations, and managerial activities, with some restrictions.

SOUTH DAKOTA (continued)

ENFORCEMENT

The law makes discharge of a "regulated substance" a "violation," and authorizes orders and injunctive actions to cause the "responsible person" to conduct "corrective action." The law defines liability for expenditures by the Department as "strict," and provides for a lien on property cleaned up by the Fund.

**CLEANUP POLICIES
AND CRITERIA**

The State uses surface and groundwater standards, and State soil cleanup criteria for petroleum, pesticides and fertilizers discharges.

CLEANUP ACTIVITIES

Whitewood Creek is in the RD stage, Williams Pipe is in the RI stage, and Ellsworth AFB is in the SI stage.

PUBLIC PARTICIPATION

No formal provisions.

**FEDERAL/STATE
PARTNERSHIP**

One MSCA and a CPCA.

SITES	
NPL sites	11
Proposed NPL	1
Sites needing attention	195
Total identified hazardous waste sites	210

UTAH

[12/2/91]

STATUTE

The *Utah Hazardous Substances Mitigation Act*, Utah Code Ann. §§19-6-301 to -321 (1991) was amended 9/91. The law provides for strict liability, site access, administrative order authority for direct and immediate threats, injunctive relief, abatement actions, civil penalties, liability agreements, voluntary cleanup agreements, cleanup recoveries, and cost recovery. Joint and several liability is explicitly not authorized.

STATE AGENCY

The lead agency is the Department of Environmental Quality, Division of Environmental Health, Bureau of Environmental Response and Remediation. The Superfund Branch in the Division has primary responsibility; it has a staff of 20 of which two are State funded. Of the remaining 18 positions, six are funded by CORE grant, ten are funded by a multisite cooperative agreement, and two are funded by Responsible Party Oversight agreements. One staff attorney at the Division level handles most legal duties, and three FTEs in the AG's office handle administrative negotiations, as well as litigation, as needed.

FUNDING

The Hazardous Substances Mitigation Fund had \$3M appropriated for startup; of this, approximately \$1.5M remains in the fund. Funding primarily comes from annual appropriations, although cost recovery monies and penalties are also deposited into the Fund.

The Fund can be used for emergency response, removals, remedial investigations, and the State's CERCLA and RCRA LUST match. The Fund cannot be used if the site can be cleaned up under any other State statute. In addition, CERCLA match monies must be explicitly appropriated.

UTAH (continued)

ENFORCEMENT

Utah strongly desires PRP leads with State oversight, because its funding is limited. The State intends PRPs to perform most remedial investigations. In the absence of PRP action, the State will pursue enforcement and/or initiate an RI using the State Fund. Remedial actions will be conducted either under State enforcement authorities or the Federal Superfund statute.

CLEANUP ACTIVITIES

Under the old law, one PRP cleanup with State oversight took place. RODs have been signed for five NPL sites. In FY91 \$335K was spent from the HSMF.

CLEANUP POLICIES AND CRITERIA

Utah has adopted a flexible cleanup policy that addresses sites on a case-by-case basis. The policy requires that the source of contamination must be eliminated or controlled. Residuals will be evaluated according to other background contaminants, environmental considerations, technical feasibility, and economic considerations. Use MCLs where applicable. Utah's Corrective Action Cleanup Standard Policy has been promulgated in the Administrative Code. Risk assessments are based on EPA guidelines (10^{-6} to 10^{-8} risk range).

PUBLIC PARTICIPATION

Records obtained by DEQ are to be made available to the public unless entitled to confidentiality. Rules providing for public participation during remedy selection will be promulgated in the near future. There is strong public participation by the PRPs and on a site-specific basis. DEQ efforts to involve the public in the process have been successful.

FEDERAL/STATE PARTNERSHIP

Utah has one MSCA, one CPCA, one SMOA, and one Site Specific CA.

SITES

NPL sites	3
Proposed NPL	0
Sites Needing Attention	86
Identified Sites	100-120 sites (on CERCLIS)

WYOMING

[12/2/91]

STATUTE

The *Wyoming Environmental Quality Act* (EQA), Wyo. Stats. §§35-11-101 to -1207 (1987), does not provide a fund for State cleanup actions. Other funds, however, enable State cleanup in emergencies (see "Funding" below). The EQA requires containment and notification of releases and grants the Department of Environmental Quality (DEQ) authority to gain site access, issue administrative orders, and seek injunctive relief and civil or criminal penalties through the State's Attorney General. Interested citizens may bring civil suits to compel compliance to the extent that such action could have been brought in Federal district court.

STATE AGENCY

The Water Quality Division within the Department of Environmental Quality has one full-time staffer under its DSMOA devoted to Federal Superfund project at F.E. Warren AFB. The Solid Waste Management and Air Quality Divisions contribute to those efforts, but have no full-time staff assigned to Superfund. The Attorney General's Office has one person who works half-time on cleanups.

The Environmental Quality Council is an independent body of seven members serving an administrative judicial role. The Council conducts hearings and hears appeals, and approves all regulations recommended by DEQ.

FUNDING

The DEQ Trust and Agency Account Fund (TAAF) can be used for emergency cleanups, mine reclamation, closure of solid waste facilities, and post-closure monitoring and maintenance where bonds are inadequate. DEQ is compelled to sue to recover those costs, where possible, whenever TAAF funds are spent.

Effective June 8, 1989, a new provision under the EQA will enable DEQ to fund emergency actions with the Environmental Quality Council's approval, through the existing DEQ Trust and Agency Account. The current balance in this fund is \$1M as of 10/91, and none of that is encumbered. The Fund, previously limited to abandoned mine reclamation activities, is funded by penalties and fines.

EQA provides a cleanup fund for UST sites and emergency spills where there is no PRP.

WYOMING (continued)

ENFORCEMENT

DEQ does not consider itself to be an initial response agency. During releases, DEQ's first priority is to contact responsible parties to determine if they have conducted or will conduct cleanup. When PRPs are unwilling or unable to act, DEQ seeks funds from the governor's contingency account, seeks approval from Council to spend Trust and Agency Account funds, or contacts the EPA Regional Response Team. It has been several years since money was sought from the contingency account.

Notices of violation and administrative orders are issued as a last resort when negotiations fail.

CLEANUP POLICIES AND CRITERIA

Standards are developed on a site-by-site basis, with guidance coming from Federal standards such as MCLs and ACLs. The State has standards for inorganic compounds in water and establishes site-specific cleanup criteria based on groundwater protection standards of Wyoming Water Quality Division Rules. Wyoming also is currently developing regulations which will specify cleanup standards for UST sites.

CLEANUP ACTIVITIES

Using Federal management assistance monies, DEQ has conducted PA/SI work for one proposed NPL site as well as the F.E. Warren A.F.B. site, which is being considered for NPL proposal, and which is the only Federal facility of concern in the State at this point. All CERCLIS-listed sites have undergone PAs and several have undergone SIs. F.E. Warren AFB has been added to the NPL.

In FY91 \$150K was spent from the DEQ Trust and Agency Account Fund.

PUBLIC PARTICIPATION

The public is able to participate in a variety of informal ways. First, any information obtained by DEQ under the EQA is available for public review. Second, citizens may comment on rulemaking and permitting decisions. Finally, the governor created two citizen commissions for the Mystery Bridge NPL site and at F.E. Warren AFB to comment on site activities.

FEDERAL/STATE PARTNERSHIP

Wyoming has one DSMOA, but no cooperative agreements with EPA.

REGION IX

**Arizona
California
Hawaii
Nevada**

SITES

NPL sites	10
Proposed NPL	1
State priority list	24
State sites	500
Identified sites	800+ on Arizona CERCLA Information and Data System (ACIDS) list

ARIZONA

[12/2/91]

STATUTE

The *Arizona Environmental Quality Act*, Ariz. Rev. Stat. Ann. §§49-281 to -287 (1986, amended 1987, 1990), establishes the Water Quality Assurance Revolving Fund (WQARF, popularly called "warf") and provides for strict, joint and several liability, administrative orders, abatement and remedial actions, injunctive actions, civil penalties, cost recovery, and treble damages. In 1990, the 39th Legislature passed a bill providing fees and taxes as major sources of WQARF funding. This legislation, however, reduces State appropriations to the fund.

STATE AGENCY

The Department of Environmental Quality (DEQ) has two offices overseeing Superfund work. The Office of Waste Programs (OWP) is comprised of mostly technical people managing most site activities, including enforcement case development; this office has a staff of 14. The other office is the Office of Water Quality, which has seven hydrologists working on site cleanup issues. The AG's office provides two staff for legal support.

The Department of Health Services performs epidemiological studies for the WQARF program upon request under interagency agreements.

FUNDING

The Water Quality Assurance Revolving Fund (WQARF) is the State Superfund, with resources of approximately \$11.6M (6/91). WQARF was formerly supplied primarily by legislative appropriation but will be funded by taxes and fees. Penalties and cost recovery enhance the fund, which is used for administrative costs, emergency actions abating threats to State waters, remedial actions, O&M, water quality monitoring, and State CERCLA match costs.

To use fund monies, the program must demonstrate that a release does or may impair State waters.

Political subdivisions are eligible for State matching funds for ground and surface water remediation.

ENFORCEMENT

The State must demonstrate culpability before initiating enforcement actions, as RPs have the right to a review hearing. Generally, responsible parties are encouraged to perform work voluntarily.

Strict, joint and several liability applies. Administrative orders, treble damages, injunctive actions, and civil penalties are authorized.

By statute, enforcement actions are handled by the AG's Office, which has two assistant attorneys general assigned to the Office of Waste Programs (two FTE).

CLEANUP POLICIES AND CRITERIA

Remedial actions must assure the protection of public health and welfare and the environment, allow the maximum beneficial use of State waters, and be cost effective over the period of potential exposure to hazardous substances. The State uses federal MCLs where applicable and may use Arizona health-based guidance levels which impose a 10^{-6} risk for unregulated carcinogenic chemicals.

CLEANUP ACTIVITIES

WQARF rules require prior approval for remedial actions by private parties when a cost recovery action is contemplated. A number of voluntary cleanups are being supervised. Operable units or partial cleanups are underway at five NPL sites. Fifteen sites have been remediated under WQARF authority, and 13 others are underway. A large number of sites are still in the investigation stage.

Last year approx. \$3.5M was spent and obligated from the fund.

PUBLIC PARTICIPATION

Important site and program actions are announced in two state-wide newspapers. Public comment is required for the annual priority list and elective for other remedial actions. Comment summary and response is required for the annual list and others for which comment has been invited. Any political subdivision that uses, has or will use the waters of the State, and State agencies may apply for matching funds for remedial actions.

FEDERAL/STATE PARTNERSHIP

Arizona receives federal funds under MSCAs. Since 1987 DEQ has received over \$2M in EPA grants. In early 1990 a MSCA was completed that covered 11 NPL sites, two of which were State leads. There is a PA/SI agreement for the State to conduct site discovery work. There are no current plans to develop a SMOA, although the State does have a DSMOA.

SITES

NPL sites	86
Proposed NPL	2
State list	Three-tiered-- approx. 350 total
Identified sites	Approx. 26,000 potential sites on the CAL-SITES database

CALIFORNIA

[12/2/91]

STATUTES

California Hazardous Substance Account Act, Cal. Health & Safety Code §§25300 *et seq.* (1981, amended 1982, 1983, 1984, 1986, 1987, 1988 and 1989), which includes the *Hazardous Substance Cleanup Bond Act of 1984*, §§25285 through 25386.6, and the *Hazardous Substance Cleanup Financing Authority Act*, §§25392 through 25395 (1984), establishes site mitigation program and provides cleanup fund.

Property transfer disclosure requirements are included in §25357.9, chapter 6.8 of the Cal. Health & Safety Code.

STATE AGENCY

Department of Toxic Substances Control (DTSC) (made a separate department in July 1991), Site Mitigation Program is staffed with 233 people in four regional offices and headquarters. Budget for site mitigation activities \$55M--approx. \$35M for staffing and support costs. Bond fund no longer major funding source. Funding primarily through Hazardous Substance Account.

DTSC has in-house legal staff, with four to five attorneys assigned to Site Mitigation Program. AG's office has nine attorneys assigned to Site Mitigation. DTSC also works with California Water Resources Control Board and the Regional Water Quality Control Boards. The Water Quality Control Boards also undertake their own cleanups in cases of "classic" groundwater contamination.

FUNDING

(1) Hazardous Substance Account, in the General Fund, §25330. Primary source of funding for Account is tax on disposal of hazardous waste. Collects an average of \$50M per year; obligated through legislative appropriations. Fund used for removal and remedial actions (prohibited until RPs given notice and opportunity to cleanup), site investigation, studies and design, O&M, State CERCLA match, and enforcement against RPs.

(2) Hazardous Substance Cleanup Fund §25385.3, known as "bond fund," authorized debt of \$100M--balance of approx. \$3M (8/91).

(3) Hazardous Substance Clearing Account, to pay off bond debt, receives cost recovery.

(4) Superfund Bond Trust Fund, to ensure payment of interest on bonds, receives \$5M annual transfer from HSA.

(5) Appropriations authorized for Hazardous Substance Victim's Compensation Fund (\$2M/year authorized; small amounts expended).

(6) §25354 creates Emergency Reserve Account (\$1M/year subaccount of HSA) for spill response and local assistance.

(7) Additional authorization for health effects studies, funding local agencies for hazardous materials equipment, and other items.

CALIFORNIA (continued)

ENFORCEMENT

Legal authorities include strict liability, yet apportionment is required. State has authority for orders for information and access, subpoena authority, administrative order authority. Civil penalties up to \$25K/day or up to \$25K/ violation, criminal penalties up to \$25K/day and/or imprisonment for up to one (1) year. (Penalties associated with hazardous waste management law rather than Superfund specifically.) Treble damages available. Citizen suit provision under Proposition 65. PRP may seek judicial review of final remedial action plan, RP must be given notice and opportunity to assume cleanup responsibility and fail to comply in order for State to undertake cleanup or enforcement activity. Preferred method is negotiated settlement, consent order with stipulated penalties for noncompliance.

CLEANUP ACTIVITIES

As of 7/1/91, remedial actions (State and Federal) have been completed on 213 sites--approx. 20 of those were State-funded, a small percentage Federal, the remainder are RP cleanups.

Of the sites on the priority list--approx. 100 undergoing RP cleanup, 100 in negotiations with RP as site investigation continues, 20 are State-funded cleanups, the remaining sites have unidentified RPs, no agreement, are potential orphans, or are backlogged.

Last year, State encumbered approx. \$50M from the Hazardous Substance Account and \$7M from the Hazardous Substance Cleanup Fund.

CLEANUP POLICIES AND CRITERIA

State has Applied Action Levels (AALs) based on 10^{-6} risk for carcinogens. Remedial action plans must be based upon, among other things, the effect of contamination on beneficial uses of resources, the effect of alternative remedial action measures on groundwater, site-specific characteristics, and cost-effectiveness. State has promulgated MCLs for many water contaminants and a number of other standards including air toxics. Deed restrictions are used to prevent inappropriate uses of land in future.

PUBLIC PARTICIPATION

DHS must hold at least one public meeting before adopting a remedial action plan and must review and consider any public comments.

Anyone affected by a removal or remedial action must be provided with the opportunity to participate in DHS's decisionmaking process. DHS must develop and make available to the public a schedule of activities for each site.

FEDERAL/STATE PARTNERSHIP

MSCA since 1/1/88 covering State oversight expenses at NPL sites--currently renegotiating.

State has two SACAs, an MSCA and CPCA in FY91. State also has a DSMOA and is working an a DSOMA. Five TAGs awarded in State.

SITES

NPL sites	1 (DOD)
Proposed NPL	1
State list	not yet promulgated
Identified sites	approx. 140 (CERCLIS)

HAWAII

[12/2/91]

STATUTE

The *Hawaii Environmental Response Law*, Haw. Rev. Stats. §§128D-1 *et seq.* (1988, amended 1991), establishes a fund for emergency response actions and provides for strict, joint and several liability, administrative order and site access authority, civil penalties, and cost recovery.

STATE AGENCY

The Hawaii State Department of Health, Environmental Protection and Health Services Administration, Office of Hazard Evaluation and Emergency Response Program is the lead agency. The program has 20 staff members. Legal support is provided by the AG's office.

FUNDING

The Environmental Response Revolving Fund has a balance of \$120K (9/91). Sources of the fund are appropriations, cost recovery, interest, and penalties. The fund may be used for emergency response actions, removals, remedial actions, site investigation, the State CERCLA match, and operation and maintenance.

HAWAII (continued)

ENFORCEMENT

There do not appear to have been enforcement activities yet by the State. The State is developing regulations and policies.

Liability is strict, joint and several, and includes liability for natural resource damages. Orders and injunctive authorities are available. Punitive damages for failure to perform removal or remedial actions are treble. Civil penalties of up to \$25K per day for noncompliance with statute, rules, or orders. Cost recovery actions must be commenced within six years of completion of response actions.

CLEANUP POLICIES AND CRITERIA

State references water quality criteria, drinking water standards, background quality and EPA guidelines. State is currently developing administrative rules to implement State law. As part of this effort the State is developing risk management criteria and cleanup policies. State has officially adopted NCP as its interim rules.

CLEANUP ACTIVITIES

During FY91 (7/1/90 - 6/30/91), \$117K was expended from the fund.

PUBLIC PARTICIPATION

Public participation activities will be defined in the administrative rules. The State's hazardous waste management law requires the Department of Health to develop a public education program for hazardous waste issues.

FEDERAL/STATE PARTNERSHIP

No SMOA or SACAs for FY91. State has SACA, MSCA, and DSMOA.

SITES

NPL sites	1
Proposed NPL	0
State sites	40
Identified sites	160 (on CERCLIS), of which about 85 are mining sites.

NEVADA

[12/2/91]

STATUTE

Nev. Rev. Stat. §§459.400-459.600 (1981, amended 1983, 1985, 1987, 1989, 1991) lacks a specific name, but State officials refer to it as the "hazardous waste statute." Primarily covering operating facilities, this law gives authority for spill cleanup by either the State or responsible parties. This statute also established a Hazardous Waste Management Fund, which may be used for removals, oversight, and site operations and maintenance costs. State statute also requires State certification of consultants providing environmental consulting services. The 1991 amendment strengthens the ability to require and perform site assessments.

STATE AGENCY

Housed within the Division of Environmental Protection, which itself is part of the Department of Conservation and Natural Resources, the Waste Management Bureau oversees the State's hazardous waste, solid waste, and UST programs. The Waste Management Bureau has the lead on activities governed by the hazardous waste statute. The Bureau's Superfund Branch has a staff of five people. One Deputy Attorney General and one assistant provide legal support for all NDEP functions.

A variety of other agencies are involved in the hazardous waste program secondarily. The most important, the State Environmental Commission, is the rulemaking and hearing body for all environmental matters in the State. Other agencies with intermittent roles include the Division of Health, Division of Emergency Management, the Division of Water Resources, the State Fire Marshal, and the Divisions of Forestry and Wildlife.

FUNDING

Most of the State's funding for cleanup comes from the Hazardous Waste Management Fund and LUST grants. Roughly three-fourths of the monies in the fund (balance \$3M, 10/91) derive from waste volume fees--\$20 per ton for out-of-state waste, \$10 per ton for waste generated in-state. Cost recovery, penalties, and permit fees provide the remaining funds. There have been no State appropriations. Fund covers emergency response, site investigation, removals, remedial actions, and activities related to oversight of the management of hazardous waste.

NEVADA (continued)

ENFORCEMENT

Liability is strict for those in possession of hazardous material involved in a spill. Administrative order authority, including orders for information and site access, subpoena authority, injunctive action, civil and criminal penalties, and cost recovery. Cost recovery is generally secured in consent agreements.

The State issues orders for cleanup. The State has collected approximately \$400K in penalties in the last two years.

CLEANUP ACTIVITIES

Presently, State does not have a superfund program. Authorized RCRA regulatory program and statutory authority of Water Pollution Control Law are the primary mechanisms used to require and oversee remedial actions. Ongoing cleanups for sites with RPs include hydrocarbon contamination, hazardous waste releases, emergency response actions, abandoned sites, and problems related to mining. Where no PRP is available cleanup only occurs if the site presents an "imminent and significant threat to public health or the environment." Overall, the goal of environmental clean-up action is to reduce risk to public health and the environment posed by contaminants and to restore land and water resources to the highest potential beneficial use existing prior to contamination.

Last year, \$800K was paid out of the fund for staff. None has been paid for cleanup yet.

CLEANUP POLICIES AND CRITERIA

The State has adopted regulations which establish standards for soil and groundwater contaminated by petroleum products. For all other releases the State refers to applicable waste and water quality standards and guidelines to set cleanup goals.

PUBLIC PARTICIPATION

There are no statutory requirements or program policies for public participation. Citizens, however, usually notify the Department of hazardous waste problems, and the Department typically informs concerned citizens of site progress.

FEDERAL/STATE PARTNERSHIP

The State has grants for PA/SI, CPCA, LUST, an MSCA, and an ESMOA.

REGION X

**Alaska
Idaho
Oregon
Washington**

SITES

NPL sites	6
Proposed NPL	0
State contaminated site list	900

ALASKA

[12/2/91]

STATUTES

1. *Alaska Oil and Hazardous Substance Releases Law*, Alaska Stats. §§46.08.005 to .900 (1986, amended 1989), authorizes a fund and provides for administrative and consent order authority, injunctive relief, civil and criminal penalties, and cost recovery.
2. *Hazardous Substance Release Control Law*, Alaska Stats. §§46.09.010 to .900 (1986), covers enforcement and other provisions.
3. *Liability and Cost for Oil and Hazardous Substances Discharge Law*, Alaska Stats. §§46.03.822 *et seq.* (1989), was enacted in response to the Exxon Valdez spill, and provides for strict, joint and several liability.

STATE AGENCY

The Department of Environmental Conservation's Contaminated Sites Section is responsible for cleanup activities. This section has 44 staff including 27 devoted to State and Federal Superfund activities.

The Office of the Attorney General provides legal support, approximately three FTEs.

The Department of Emergency Services also has involvement in emergency situations.

FUNDING

The Oil and Hazardous Substance Release Response Fund has a balance of \$27M (12/91). Fund monies may be used for emergency response, remedial actions, and the State's share of Federal oil discharge cleanups and CERCLA match. These monies derive from a 5¢ per barrel tax on oil from the pipeline. The Fund has a \$50M ceiling.

Monies from forfeited performance bonds, cost recovery and penalties are placed into a "mitigation account" separate from the Fund but are available for the same purposes. In FY91 this accounted contained \$1.7M.

ALASKA (continued)

ENFORCEMENT

Liability is strict, joint and several. Civil penalties are \$500-100,000 for first violations, and no more than \$10,000 per day that a violation continues. Individuals are subject to criminal penalties of \$10,000 per day, up to one year imprisonment, or both, for knowingly falsifying documents used for purposes of compliance monitoring.

CLEANUP POLICIES AND CRITERIA

The State uses MCLs/MCLGs, water quality criteria, EPA standards, risk assessment, and promulgated standards for cleanup of petroleum spills in addressing contaminated sites.

The remedy is selected after completion of site and risk assessments and study of treatment alternatives.

CLEANUP ACTIVITIES

Focus on site investigation and cleanup. The Release Response Fund is expected to support investigation and/or remediation at about 20 sites per year. DEC has developed a site ranking system distinct from the Federal HRS. 300 sites have been reviewed using this new system.

PUBLIC PARTICIPATION

Citizen advisory panels are formed for major cleanups. National Contingency Plan public participation guidelines are followed. The legislature has established a Citizens' Oversight Council on Oil and Hazardous Substances.

FEDERAL/STATE PARTNERSHIP

One MSCA, one SACA, and a CPCA. A DSMOA was signed 6/90.

SITES

NPL sites	9
Proposed NPL	0
Identified sites	approx. 175 (on CERCLIS)

IDAHO

[12/2/91]

STATUTE

Idaho has no State Superfund law. The *Idaho Hazardous Waste Management Act* (HWMA), Idaho Code §§39-4401 to -4432 (1983, amended 1984, 1986, 1987, and 1988), establishes two funds but provides only minimal legal authority for site cleanups.

STATE AGENCY

The lead agency is the Department of Health and Welfare, Division of Environmental Quality. CERCLA responsibilities are split between two divisions within the Division of Environmental Quality: the Division of Planning and Evaluation and the Division of Community Programs. The Division of Planning and Evaluation handles CORE grant funding and support services; the Division of Community Programs handles pre-remedial activities and site-specific remedial work. Of a total of 32 personnel in the two divisions, 17 work primarily on Superfund. Four deputy AGs are assigned to handle cleanup cases for the Division of Environmental Quality.

FUNDING

Funding for cleanups is generally obtained by legislative appropriations. The HWMA, however, establishes the Hazardous Waste Training, Emergency, and Monitoring Account. The HWMA authorizes use of this Fund for necessary removal and remedial actions, but program staff caution that this is primarily a hazardous waste management fund, not a cleanup fund. The Fund's balance was \$355K as of 6/30/91. \$1.1M was added from appropriations and fees for FY91. Monies are obtained primarily through appropriations and a waste disposal fee.

The HWMA also establishes the Hazardous Waste Emergency Account, which has a balance of \$169K (6/30/91) and can be used for emergency response. The Fund's primary source of monies is penalties, and it is not relied on heavily by the agency. Approx. \$57K was added from penalties and cost recoveries for FY91.

ENFORCEMENT

The State prefers RP cleanup, particularly since it has no funding of its own. The State has essentially no enforcement authorities under the HWMA. For emergency conditions, the State has injunctive and order authorities under the Idaho Environmental Protection and Health Act.

**CLEANUP POLICIES
AND CRITERIA**

The State has not yet developed cleanup standards.

CLEANUP ACTIVITIES

There is a joint State/Federal lead at one of the nine NPL sites (Bunker Hill). There have been several removal actions at the Bunker Hill site and a ROD has been signed for residential soil cleanup. Of the other NPL sites, one is virtually complete and another has been partially cleaned up. The remainder are in the RI/FS phase.

\$8K from the Hazardous Waste Emergency Account was spent on cleanup activities during FY91. Although the Hazardous Waste Training, Emergency, and Monitoring Account is authorized for removal and remedial action, it is currently used only for RCRA.

PUBLIC PARTICIPATION

A full-time on-site community relations person has been contracted for the Bunker Hill NPL site. This person coordinates monthly public meetings, manages media contact, and deals with community health concerns.

**FEDERAL/STATE
PARTNERSHIP**

No SMOA. CPCA and DSMOA in effect. One MSCA covers six NPL sites. One CA exists for Bunker Hill (two operable units), one CA for PA/SI work, and one CA for DOE facility. An IAG was signed for the Idaho National Engineering Laboratory between the State, EPA and DOE.

SITES

NPL sites	8
Proposed NPL	0
State Inventory	44
Confirmed Release List (CRL)	71
Site Discovery Database	1010

OREGON

[12/2/91]

STATUTE

Oregon Environmental Cleanup Law, Or. Rev. Stats. §§465.200 - .420, 465.900 and 466.995 (1987, amended 1989, 1991), establishes the Hazardous Substance Remedial Action Fund (HSRAF) and provides for strict liability, administrative order authority for cleanup, injunctive relief, civil penalties, cost recovery, liens, and punitive damages. Amendments establish Orphan Site Account within HSRAF and modify the inventory provisions for State sites (ORS §465.215 - .245). 1991 amendments require classification of secured creditor exemption and extend defense to liability for contamination caused solely by acts of God, war and third parties to "knowing purchasers."

STATE AGENCY

Lead agency is the Environmental Cleanup Division (ECD) in the Department of Environmental Quality (DEQ). Program has 66 permanent staff. One FTE from the AG staff handles litigation and advises ECD as requested.

FUNDING

HSRAF has a balance of \$3.9 (6/91) with an average of \$3.8M collected from appropriations, cost recovery, penalties and fines, and a monthly fee on the operator of the State's only hazardous waste and PCB disposal facility. The fund supports just over half the agency's administrative budget. DEQ also receives Federal Superfund monies.

The Fund can be used for emergency response, removals, studies and design, remedial actions, O&M, and State CERCLA match.

The Orphan Site Account, within the HSRAF, has the potential to provide an additional \$3M/yr for purposes of bond debt retirement, with equal amounts collected from hazardous substances fee, petroleum fee, and solid waste tipping fee. No bonds have yet been issued.

OREGON (continued)

ENFORCEMENT

ECD favors an approach that seeks voluntary cleanup from PRPs prior to issuance of orders; use of the Fund is agency's last choice. Statute establishes strict liability for owners, operators, and any person who caused or contributed to hazardous substance release. However, transporters and off-site generators are generally not regarded as liable. Although the statute is not explicit, ECD interprets liability as joint and several; this has not yet been challenged.

CLEANUP POLICIES AND CRITERIA

Regulations require cleanup to background (pre-release) levels. If this is infeasible, a remedial action is to be selected that attains the lowest concentration level that satisfies certain protective and feasibility requirements. Oregon has developed LUST cleanup standards and is currently proposing numeric standards for soil cleanup.

CLEANUP ACTIVITIES

ECD is providing oversight at 75 sites. 33 of the sites are voluntary cleanup projects with State oversight provided by the recently established Voluntary Cleanup Section. The DEQ is providing oversight under State authorities at one NPL site in which EPA is not actively involved. At that site, EPA has deferred to the State.

PUBLIC PARTICIPATION

The law mandates public notice of DEQ's program for identifying releases, proposed settlement agreements, and all proposed remedial actions with a 30-day comment period. Public meetings are required for proposed remedial actions if requested by a minimum of 10 people. Public notice provided for final remedial action.

Regulations for the statute were promulgated, as mandated, with significant input from a 22-member committee composed of citizens, local governments, environmental groups, and industry.

FEDERAL/STATE PARTNERSHIP

One MSCA, one SACA, a CPCA, and one SMOA.

SITES

NPL sites	45
Proposed NPL	4
Priority list	311 (includes NPL sites)
State inventory	950 (includes NPL sites and State sites)

WASHINGTON

[12/2/91]

STATUTE

Model Toxics Control Act, Wash. Rev. Code ch. 70.105D (1988), authorizes funding for two accounts, enforcement and public participation procedures.

STATE AGENCY

Department of Ecology, under the Assistant Director for Waste Management, has 148 staff in the Toxics Cleanup Program. 34 of the positions are federally funded--the remaining are supported by the State Toxics Control Account. The Attorney General's office, handling settlements, has approx. 3-4 FTEs working on cleanups.

FUNDING

Two accounts replenished biennially: (1) State Toxics Control Account and (2) Local Toxics Control Account.

State account receives 47% of the revenue from a tax on wholesale value of hazardous substances plus cost recovery, penalties and fines. Balance in fund estimated to be \$25.9M on 7/1/91. Amount collected per year available for cleanup \$13M. No cap on fund. State account funds related activities in other agencies, in addition to various divisions within Ecology. Legislature must appropriate fund monies for cleanup.

Fund can be used for site investigation, emergency response, studies and design, remedial actions and O&M, State CERCLA match, program administration. Part of cleanup fund set aside for LUST hardship cleanups. Penalties and fines earmarked for best management practices and recycling, not cleanup.

Local account receives 53% of tax revenue from tax on wholesale value of hazardous substances to help local governments pay for site cleanups, waste planning, reduction and recycling. Balance \$43M as of 8/91.

WASHINGTON (continued)

ENFORCEMENT

Model Toxics Control Act provides for strict, joint and several liability, subpoena authority, site access authority, enforcement order authority, injunctive action, civil penalties (up to \$25K/day), cost recovery, treble damages. Citizen suits and contractor indemnification authorized. Consent decree must be obtained by AG and issued by Court. Approx. 60-70% of cases resolved through negotiation, 30-40% through enforcement orders. Only one traditional cost recovery action at NPL site--cost recovery usually built into consent decrees.

CLEANUP POLICIES AND CRITERIA

At least as stringent as all applicable State and Federal laws, including health-based standards under State and Federal law. DOE references water quality criteria, drinking water standards, background quality, risk levels, and EPA guidelines. State cleanup standards adopted on February 28, 1991.

Priority list of projects was established 9/90 and is updated twice each year.

CLEANUP ACTIVITIES

14 NPL State-lead sites (in addition to Hanford site which is a mix of authorities). Fewer than 20 sites with completed remedial actions, 142 State and 48 NPL cleanups in progress.

PUBLIC PARTICIPATION

DOE must establish regional citizens' advisory committees, notify public of development of investigating or remedial plans and availability of RI/FS and Cleanup Action Plan, give concurrent public notice of all compliance orders, enforcement orders, or notices of violation. Provisions include public notice and hearing on consent decrees. Model Toxics Control Act authorizes public participation grants to affected persons or not-for-profit public interest organization.

FEDERAL/STATE PARTNERSHIP

SMOA, CPCA, SACA, CA, and 2 TAGs.