# Special Accounts Senior Management Committee

July 8, 2010

# Agenda

- Summary December 2009 Meeting
- Recent SA Activities and Issues
- Reclassifications & Transfers to the Trust Fund
- Status of OIG Audits & Recommendations
- Planned Uses for SA Resources
- Establishing SAs for RCRA Sites
- Evaluation of Committee Operations
- Upcoming SA Activities

# Goals for Meeting

- Review activities over past 6 months
- Discuss upcoming special account activities
- Decision on the Superfund special account reclassification portion of the FY 2011 Deobligation Recertification Guidance
- Discuss operation of the Committee and areas for improvement

# Summary of December 2009 Meeting

# December 2009 Meeting

- Committee discussed:
  - Status of OIG audits and open recommendations
    - Approved a template to report SA financial and planning information publicly
    - Discussed development of guidance on retaining SA funds for future use (aka, “reserves” guidance)
    - Results of financial statement audit
  - Concerns about accomplishment of planned reclassifications and TF transfers
  - Use of funds set aside for SA management

# Recent SA Activities and Issues

# Financial Status of SAs

| | FY 08 | FY 09 | October 1, 2009 through June 23, 2010 | Cumulative through June 23, 2010 |
|---|---|---|---|---|
| **Open and Closed Accounts** | | | | |
| Open Accounts | 98 | 64 | 59 | 964 |
| Closed Accounts | 13 | 11 | 13 | 56 |
| | | | | |
| Receipts Collected | $429.1 | $237.1 | $693.9 | $3,286.5 |
| Interest Earned | $50.5 | $25.4 | $4.6 | $377.0 |
| Receipts Transferred to the Trust Fund | ($1.2) | ($9.5) | ($0.2) | ($11.8) |
| Obligations[1,2] | ($204.6) | ($233.8) | ($162.4) | ($1,772.9) |
| Available Balance | $1,323.6 | $1,342.7 | $1,878.7 | |

1 Obligations are the sum of Unliquidated Obligations, Disbursements and Reclassifications
2 Includes disbursements to work parties.
FDW as of June 23, 2010
Numbers may not add due to rounding.

# SASMC Budget Update

## FY 2010 Activities

- OSRTI
  - Changes to CERCLIS Screens [redacted] Exemption 5 - Deliberative Process
- OFS
  - Support for Special Account Reporting [redacted] Exemp ion 5 - Deliberative Process
- OSRE
  - Approved to create a FAQs database on intranet [redacted] Exemption 5 - Deliberative Process
- [redacted] Exemption 5 - Deliberative Process

# SASMC Budget Update

## FY 2011 Proposed Activities

Exemption 5 - Deliberative Process

[redacted]

# National SA Meeting

- Public report to Congress
- Planning and Use Guidance
- Committee activities
- Analysis of plans and use of SAs
- Regional processes for planning and managing SAs
- IFMS expenditures for reclassification
- Financial transactions
- OSRE Hot Topics & Discussion

# OGC State Assurance Update

- OSWER, OECA, and OGC met June 2nd
- Agency will maintain current practice regarding state assurances when using special account funds

# SA Documents under Development

| Issue/Area to be Addressed | Description | Proposed Type of Document | Lead Office | Next Steps |
|---|---|---|---|---|
| 1. Planning and Use of SAs Guidance (aka, "Reserves" Guidance) | Provide clarity on the subject of retaining funds in a special account for potential future use when an agreement has been reached with the PRP(s). | Guidance | OSRTI | COMPLETE - Draft guidance by March 31, 2010.<br>Final guidance by September 30, 2010. |
| 2. Use of special account resources | Special account resources should generally be used before appropriated resources. | Clarification Statement | OSRTI | COMPLETE - Addressed in Planning and Use of SA Guidance. |
| 3. 2009 Special Accounts Senior Management Committee Annual Report | Chair of the Committee is to develop a report annually on the activities of the Committee to be provided to the signatories of the Charter. | Report | OSRTI | COMPLETE - Provided to Charter signatories on March 17, 2010. |
| 4. Placement of funds into a special account | Place into special account only the estimated amount needed for future work. | Clarification Statement | OSRTI | Will be re-evaluated for inclusion in the Planning and Use Guidance. |

# SA Documents under Development, cont.

| Issue/Area to be Addressed | Description | Proposed Type of Document | Lead Office | Next Steps |
|---|---|---|---|---|
| 5. Procedures for reclassifying Superfund expenditures | Procedures for how to reclassify site-specific expenditures with SA funds, including HQ site-specific expenditures. | Fact Sheet | OSRTI | Update with additional information based on FY 2010 reclassifications. Complete by December 31, 2010. |
| 6. Special Accounts Management Strategy | Update management strategy issued January 2009 with priorities for managing special accounts for next two years. | Strategy | OSRTI | Issue revised management strategy by December 31, 2010. |
| 7. Frequently Asked Questions (FAQs) | Short document for the Intranet with the most frequently asked questions HQ receives on SAs. | FAQs | OSRE | COMPLETE - FAQs posted on the OSRE SA intranet. |
| 8. Special Accounts Sample Memos | Reissue sample memos for regions to use when notifying HQ of establishing a SA, reclassifying, transferring funds to the Trust Fund, closing out a SA, or combining notification of actions. | Sample memos | OSRE | Issue memos by August 31, 2010. |

# SA Documents under Development, cont.

| Issue/Area to be Addressed | Description | Proposed Type of Document | Lead Office | Next Steps |
|---|---|---|---|---|
| 9. FY 2011 Recertification Guidance | Determine policy for recertifying resources made available from SA reclassifications. | Annual Guidance | OB | Senior Management Committee decision will be inserted in FY 2011 Guidance, to be issued by December 31, 2010. |
| 10. Financial Management of Special Accounts (RMDS 2550D Ch. 15) | Update guidelines on amounts deposited into SAs and document sound internal controls and federal requirements. | Guidance | OFM | Workgroup will reconvene to update guidance. |

# Reclassifications & Transfers to the Trust Fund

# Reclassifications & Transfers to the Trust Fund

| | Plans | | Actuals | |
|---|---|---|---|---|
| | $ in M | # Accts | $ in M | # Accts |
| **Reclassifications** | | | | |
| **FY 2009** | $29.0 | 48 | $14.4 | 19 |
| **FY 2010** | $30.5 | 53 | $8.7 | 13 |
| **Transfers to Trust Fund** | | | | |
| **FY 2009** | $22.1 | 32 | $9.5 | 8 |
| **FY 2010** | $7.2 | 37 | $0.2 | 3 |

- OSRTI has provided quarterly updates to the Regions on the status of planned Reclassifications and Transfers to the Trust Fund.
- As of June 28, 2010, Headquarters has received 35 draft and final reclassification notification memos totaling $20.3 M.

FY 2009 plans from 11/7/08 CERCLIS pull. FY 2010 plans from CERCLIS on 6/28/10.
FY 2010 Actuals as of 6/28/10 from FDW.

# OSRTI FMFIA Review

- OSRTI to review SAs as part of FY 2010 FMFIA process
- Focus will be on end of lifecycle activities for special accounts
  - Reclassification, Transfer to the Trust Fund, Closeout
- Will review accomplishments vs. plans for FY 2009 and FY 2010 reclassifications and transfers to the Trust Fund
- Goal to complete review by end of calendar year

# Annual Deobligation Recertification Guidance Background

- FY 2009 Deobligation Recertification Guidance
  - A policy specific to the recertification of special account reclassifications was introduced in the FY 2009 guidance
  - Acknowledges the additional work required to effectuate reclassifications
- FY 2010 Deobligation Recertification Guidance
  - Issued December 2009
  - Did not change the FY 2009 policy
  - States policy will be re-evaluated for FY 2011

# SA Reclassification Process

1. Regions draft a reclassification justification memo
2. Headquarters reviews the memo
3. Regions address comments and finalize the memo
4. Regions request reimbursable authority and do KV transaction
5. RPIOs recertify resources once KV transaction completed

Challenges:

- The higher the dollar value reclassified, the more lines of accounting required to swap funds
- Older original expenditures are more difficult to find (i.e., pre-IFMS transactions) and more difficult to crosswalk to the current budget structure

# Proposals for SA Reclassifications

- Proposals for the SF Remedial & Removal Programs only:
  - Option 1 (Status Quo)
    - Up to $1 M to the RPIO
    - Amount greater than $1M, 75% to the National Pool and 25% to the Region
    - Allows a waiver on a case-by-case basis

Exemption 5 - Deliberative Process

[redacted]

- Policy of 100% back to the RPIO where the obligation originated for all other programs (e.g., enforcement, federal facilities) remain unchanged

# Status of OIG Audits & Recommendations

# OIG Reports & Recommendations

- March 18, 2009 Final Report

  "Improved Management of Superfund Special Accounts Will Make More Funds Available for Clean-ups"

- March 31, 2010 Final Report

  "EPA Should Continue Efforts to Reduce Federal Advances and Federal Special Accounts"

# OIG March 2009 Report

## Status of Recommendations

- (1) Establish a Central Management and Action Official - Completed
  - Charter established Superfund Senior Management Committee (Jan. 2009)
- (1a) Public reporting requirements - Completed
  - Report contained in FY 2011 Congressional Justification February 1, 2010
- (1b-c) Annual account monitoring process and controls - Completed
  - Monitoring Plan for Special Account Planning Data (March 4, 2009)
  - Superfund Senior Management Committee review semi-annually
- (1d) Data use plan - Completed
  - Monitoring Plan for Special Account Planning Data (March 4, 2009)
- **(1e) Guidance on proper retention of funds for future use - Open**
  - **Additional guidance by Sept. 30, 2010**
- **(1f) Re-evaluate account funds retained at Stringfellow, Beede, Thermo Chem once guidance issued - Open**
  - **Review by June 30, 2011**
- (1g) Analyze oldest accounts - Completed
  - Review completed on Aug. 31, 2009
  - Will continue to review as part of work planning and mid-years

# OIG March 2009 Report Recommendation 1(e)

- Guidance on proper retention of SA funds for future use, before and after agreement with PRP
- Corrective action milestones:
  - Data analysis (Completed November 2009)
  - Draft document (Completed March 2010)
  - Final document (Ongoing – due September 30, 2010)
- Developing "Planning and Use of Superfund Special Accounts" guidance
  - Overarching principles

# OIG March 2009 Report Recommendation 1(e) continued…

- Draft "Planning and Use of Superfund Special Accounts" guidance, continued
  - SA General Hierarchy of Use
    1. Settlement incentive
       - -Future settlement incentives
       - -Disburse to PRPs pursuant to work agreements
    2. EPA response actions
       - -Planned response actions
       - -Addressing site uncertainties, including:
         - » Pre-remedy, pre-settlement, EPA work takeover, protectiveness contingencies
    3. Reclassification
    4. Transfer to the Trust Fund

# OIG March 2009 Report Recommendation 1(e) continued…

- Next Steps:
  - Address comments from regions and offices
  - Guidance to be issued by OSRTI and OSRE by **September 30, 2010** to meet OIG corrective action deadline
  - Update CERCLIS planning screen and develop reports to monitor implementation of guidance

# OIG March 2009 Report Recommendation 1(f)

- Re-evaluate account funds retained at Stringfellow, Beede, Thermo Chem once guidance issued
  - Until Recommendation 1(e) completed will continue to monitor accounts through mid-year and work planning reviews
  - Will re-evaluate funds retained in these accounts by **June 30, 2011** after issuance of Planning and Use Guidance

# OIG March 2010 Final Report: Federal Special Accounts

- **OIG Findings**
  - Current guidance does not address spending federal vs. non-federal funds (i.e., TR2A vs. TR2 & TR2B funds)
  - Outstanding federal SAs and misclassified SA funds complicate EPA's efforts to reconcile and reduce trading partner differences
- **Recommendations**
  - Baseline review of consent decrees to verify that special account receipts and expenditures are recorded in the proper fund codes
  - Annual reviews of SAs with negative balances and adjust receipts and/or expenditures as necessary

# OIG March 2010 Final Report: Response

- Required to provide a written response to the report by June 28, 2010.
- Committee to develop a plan for conducting a baseline review of federal SAs by August 31, 2010.
  - Review of federal SAs to be completed by December 31, 2010.
- Quarterly reviews are currently being performed by the Cincinnati Finance Center in conjunction with the Agency's response to the OIG's Audit Report "Audit of EPA's Fiscal 2009 and 2008 (Restated) Consolidated Financial Statements (Report #10-1-0029).

# Planned Uses for SA Resources

# FY 2010 Mid-Year Reviews

- FY 2010 mid-year planning data was pulled from CERCLIS on March 29th
  - Available balance as of March 8th
- Mid-year discussions with the Regions were conducted in April and May 2010
- Areas of focus
  - CC/Deleted Sites
  - Accounts 10 years old or more
  - Accounts with more than $10M available
  - Accounts with $0 disbursed

# FY 2010 Special Account Planning

| | FY10 Beg Year | FY10 MY | Difference |
|---|---|---|---|
| Amount Disbursed | $1,426.2 M | $1,506.9 M | $80.7 M |
| Available Balance | $1,342.7 M | $1,862.2 M | $519.5 M |
| Planned Uses: | | | |
| Amount to Work Parties | $39.2 M | $41.6 M | $2.4 M |
| Planned CERCLIS Obligations | $754.0 | $1,194.4 M | $440.5 M |
| Additional Planned Uses | $490.5 M | $623.6 M | $133.2 M |
| Total Planned Uses | $1,283.6 M | $1,859.7 M | $576.1 M |
| % Avail Bal Planned | 95.6% | 99.9% | 4.3% |
| Unplanned Avail Bal | $59.1 M | $2.5 M | -$56.6 M |

FY10 BOY: FDW 10/1/09 & CERCLIS 10/16/09
FY10 MY: FDW 3/8/10 & CERCLIS 3/29/10

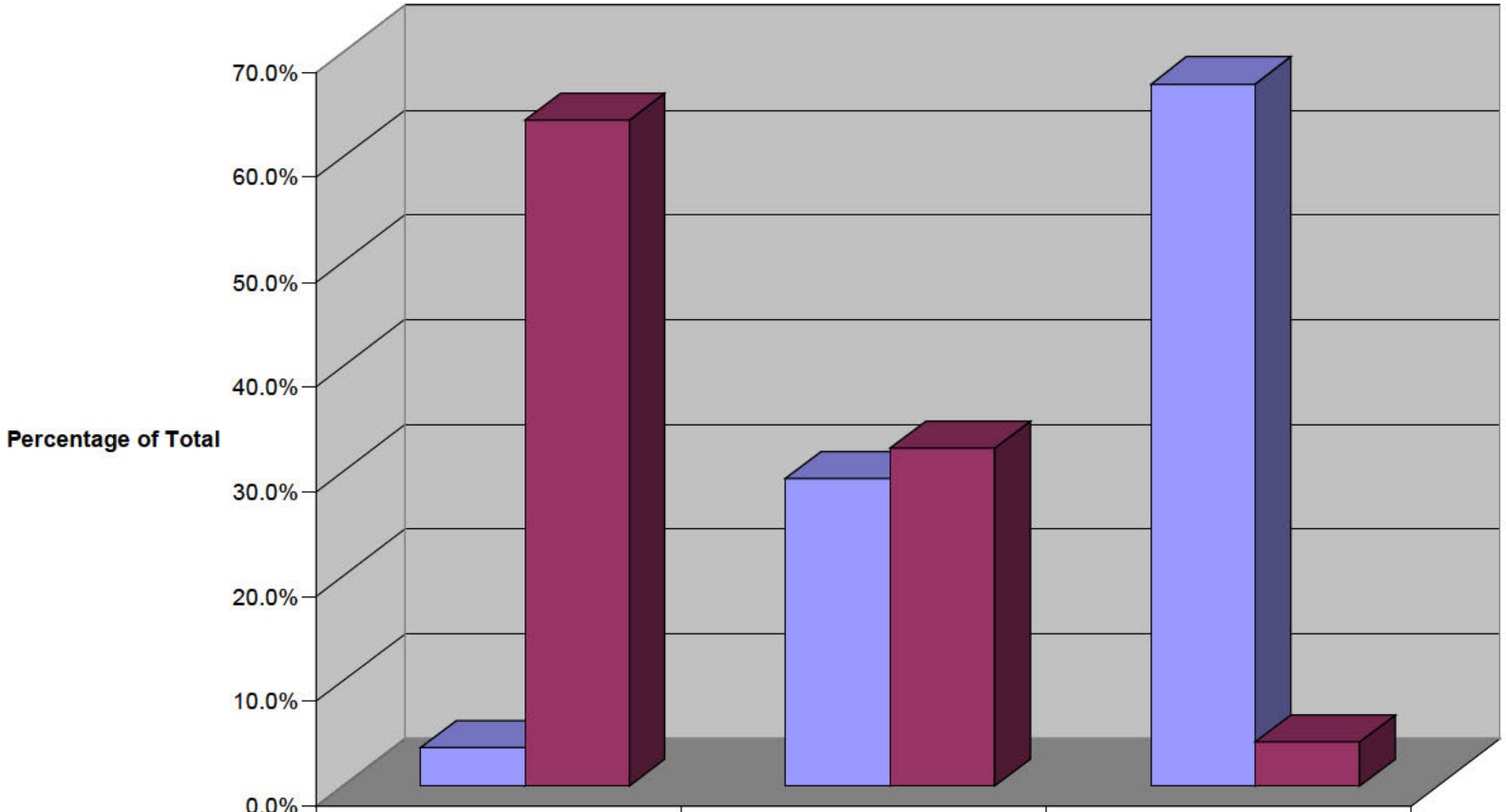
# Sizeable Increase in Available Balance

- The National Available Account Balance increased by $519.5 M from FY10 BOY to FY10 MY
- Below are five accounts that account for 69% ($357.8 M) of the $519.5 M

| SA Name (SA Number) | Available Balance - BOY ($M) | Available Balance - MY ($M) | Difference | % Increase |
|---|---|---|---|---|
| OMAHA LEAD | $0.1 | $216.7 | $216.6 | 357667% |
| COEUR D'ALENE BASIN RD/RA | $0.9 | $49.9 | $49.0 | 5604% |
| TAR CREEK (OTTAWA CO) (OU4) | $0.0 | $34.4 | $34.4 | New Account |
| CB/NT ASARCO | $2.4 | $31.6 | $29.2 | 1229% |
| CHEROKEE COUNTY | $1.1 | $29.7 | $28.6 | 2539% |

CERCLIS as of 10/16/09 & 3/29/10

# Composition of SAs with Available Balances




| | Greater than $10M | Between $500K and $10M | Less than $500K |
|---|---|---|---|
| Accounts | 3.6% | 29.4% | 67.0% |
| Available Balance | 63.6% | 32.3% | 4.2% |

- 3.6% (36) of SAs comprise 63.6% ($1,183.6M) of the total available balance
  - Increase from 22 accounts with more than $10M available at FY 2010 work planning
- 67% (664) of SAs comprise 4.2% ($77.9M) of the total available balance



CERCLIS as of 3/29/10

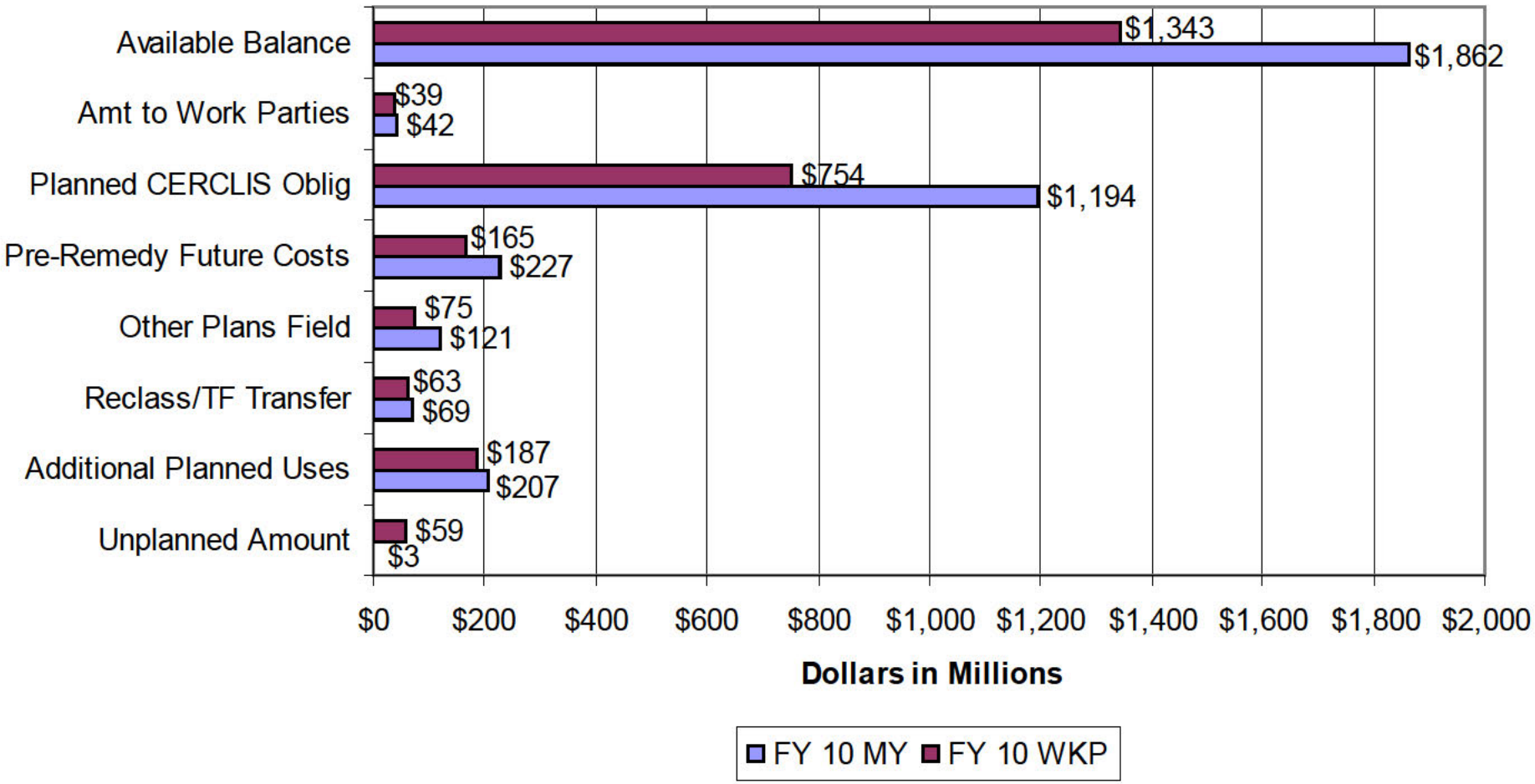
# Regional Profile of Special Accounts

- Number of Accounts
  - 991 total accounts
  - Region 5 has the most open (211) and closed (9) accounts
- Available Balance
  - $1,862.2 M is available
  - Region 7 has the largest available balance at $361.2 M
- Unplanned Amounts
  - $2.5 M is unplanned in CERCLIS as of March 29, 2010
  - Exemption 5 - Deliberative Process
- Use Limitations
  - 86 accounts have been identified as having a limitation for use of funds
  - Exemption 5 - Deliberative Process



FDW as of 3/8/10 & CERCLIS as of 3/29/10

# CERCLIS Planning Data Comparison
## FY10 Work Planning to FY10 Mid-Years






CERCLIS as of 3/29/10

# CERCLIS Planning Focus Areas

| | Number of Accounts | % of Total Accounts | Available Balance ($M) | % of Total Avail Bal |
|---|---|---|---|---|
| **National Total** | **991** | | **$1,862.2** | |
| **More than $10M Available** | 36 | 4% | $1,183.6 | 64% |
| **CC Sites** | 333 | 34% | $242.9 | 13% |
| **Deleted Sites** | 34 | 3% | $18.3 | 1% |
| **$0 Disbursed** | 286 | 29% | $218.1 | 12% |
| **10 Years Old or More** | 159 | 16% | $346.9 | 19% |
| | **Number of Accounts** | **% of Total Accounts** | **Amount Planned ($M)** | **% of Avail Bal Planned** |
| **Other Plans** | 121 | 12% | $120.9 | 6% |
| **FY 2010 Reclassifications** | 53 | 5% | $29.6 | 2% |
| **FY 2010 TF Transfers** | 38 | 4% | $7.8 | 0% |



CERCLIS as of 3/29/10

# Comparison of Plans Based on Site Status

| | Deleted Sites | | CC Sites[1] | | Non-CC Sites | | Total | |
|---|---|---|---|---|---|---|---|---|
| | $ in M | % | $ in M | % | $ in M | % | $ in M | % |
| Amt for Work Parties | -$0.2 | -1.1% | $19.2 | 8.5% | $22.6 | 1.4% | $41.6 | 2.2% |
| Planned CERCLIS Obligations | $3.9 | 21.3% | $77.9 | 34.7% | $1,112.6 | 68.7% | $1,194.4 | 64.1% |
| Pre-Remedy | $0.0 | 0.0% | $13.4 | 6.0% | $213.4 | 13.2% | $226.8 | 12.2% |
| Outyear FYR | $3.4 | 18.5% | $8.7 | 3.9% | $8.3 | 0.5% | $20.5 | 1.1% |
| Intramural Use | $1.4 | 7.7% | $17.9 | 8.0% | $53.2 | 3.3% | $72.6 | 3.9% |
| Use Req by Settlement | $3.0 | 16.4% | $0.7 | 0.3% | $18.1 | 1.1% | $21.8 | 1.2% |
| Potential Use in Settlement | $0.0 | 0.0% | $14.9 | 6.6% | $50.9 | 3.1% | $65.8 | 3.5% |
| Future Settlement Incentive | $0.0 | 0.0% | $3.1 | 1.4% | $22.6 | 1.4% | $25.7 | 1.4% |
| Reclassification | $4.8 | 26.4% | $35.2 | 15.7% | $19.6 | 1.2% | $59.7 | 3.2% |
| TF Transfers | $0.1 | 0.4% | $0.6 | 0.3% | $8.6 | 0.5% | $9.2 | 0.5% |
| Other Plans | $1.7 | 9.2% | $33.8 | 15.0% | $85.4 | 5.3% | $120.9 | 6.5% |
| Transfer to/from Other SA | $0.0 | 0.0% | -$0.5 | -0.2% | $1.2 | 0.1% | $0.7 | 0.0% |
| Unassigned | $0.2 | 1.1% | -$0.4 | -0.2% | $2.7 | 0.2% | $2.5 | 0.1% |
| **Total Available** | **$18.3** | | **$224.6** | | **$1,619.3** | | **$1,862.2** | |

[1] Excludes Deleted Sites.

Percentages based on Total Available for each site status.



CERCLIS as of 3/29/10

# Comparison of Plans for Focus Areas

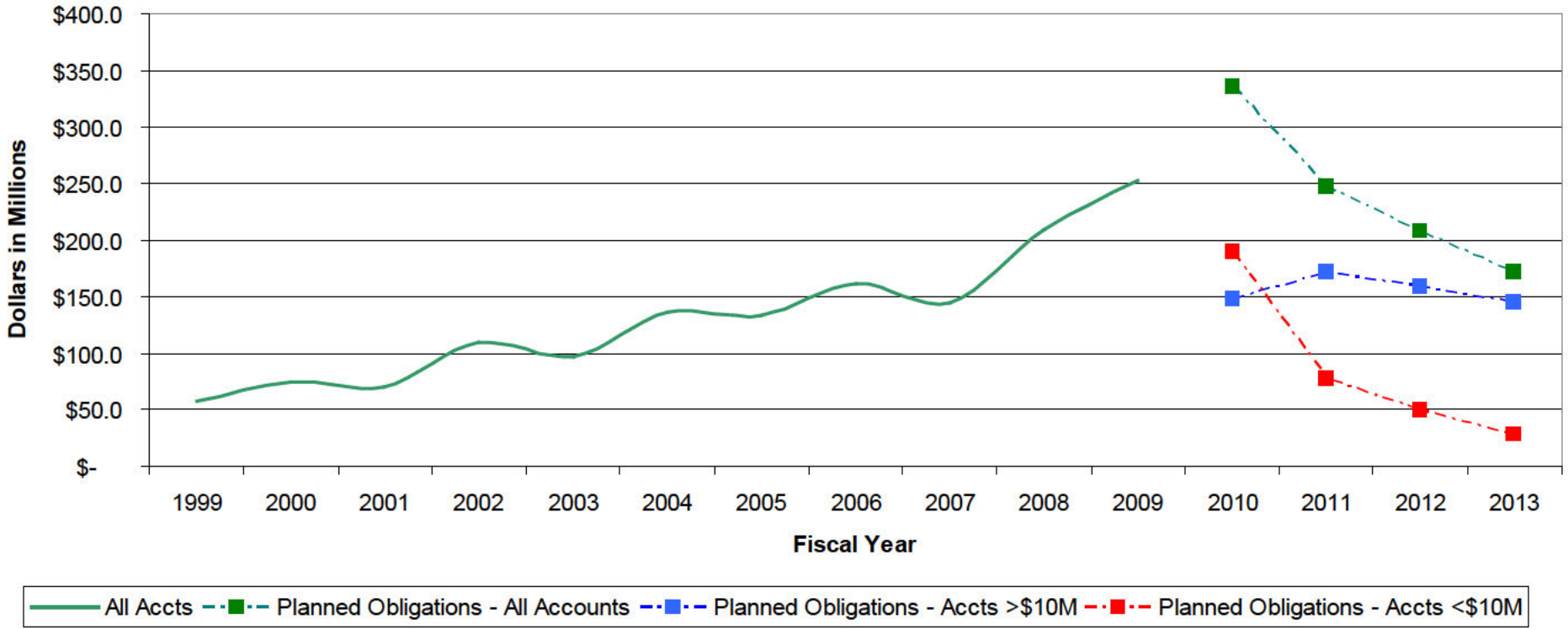
| | $0 Disbursed Accounts | | Accounts 10 Years Old or More | | Greater than $10 Million Available | |
|---|---|---|---|---|---|---|
| | $ in M | % | $ in M | % | $ in M | % |
| Amt for Work Parties | $14.3 | 6.5% | $12.2 | 3.5% | $0.0 | 0.0% |
| Planned CERCLIS Obligations | $113.4 | 52.0% | $232.4 | 67.0% | $834.5 | 70.5% |
| Pre-Remedy | $7.3 | 3.3% | $16.2 | 4.7% | $174.5 | 14.7% |
| Outyear FYR | $1.3 | 0.6% | $5.5 | 1.6% | $2.2 | 0.2% |
| Intramural Use | $9.2 | 4.2% | $20.4 | 5.9% | $23.3 | 2.0% |
| Use Req by Settlement | $0.0 | 0.0% | $5.0 | 1.5% | $16.2 | 1.4% |
| Potential Use in Settlement | $25.7 | 11.8% | $3.6 | 1.0% | $48.0 | 4.1% |
| Future Settlement Incentive | $6.1 | 2.8% | $6.5 | 1.9% | $12.5 | 1.1% |
| Reclassification | $16.1 | 7.4% | $29.1 | 8.4% | $57.1 | 4.8% |
| TF Transfers | $9.9 | 4.5% | $13.4 | 3.9% | $4.4 | 0.4% |
| Other Plans | $1.8 | 0.8% | $0.5 | 0.2% | $0.0 | 0.0% |
| Transfer to/from Other SA | $0.1 | 0.0% | $1.2 | 0.3% | $0.2 | 0.0% |
| Unassigned | $12.9 | 5.9% | $0.9 | 0.2% | $10.8 | 0.9% |
| **Total Available** | **$218.1** | | **$346.9** | | **$1,183.6** | |

Percentages based on Total Available in each focus area.



CERCLIS as of 3/29/10

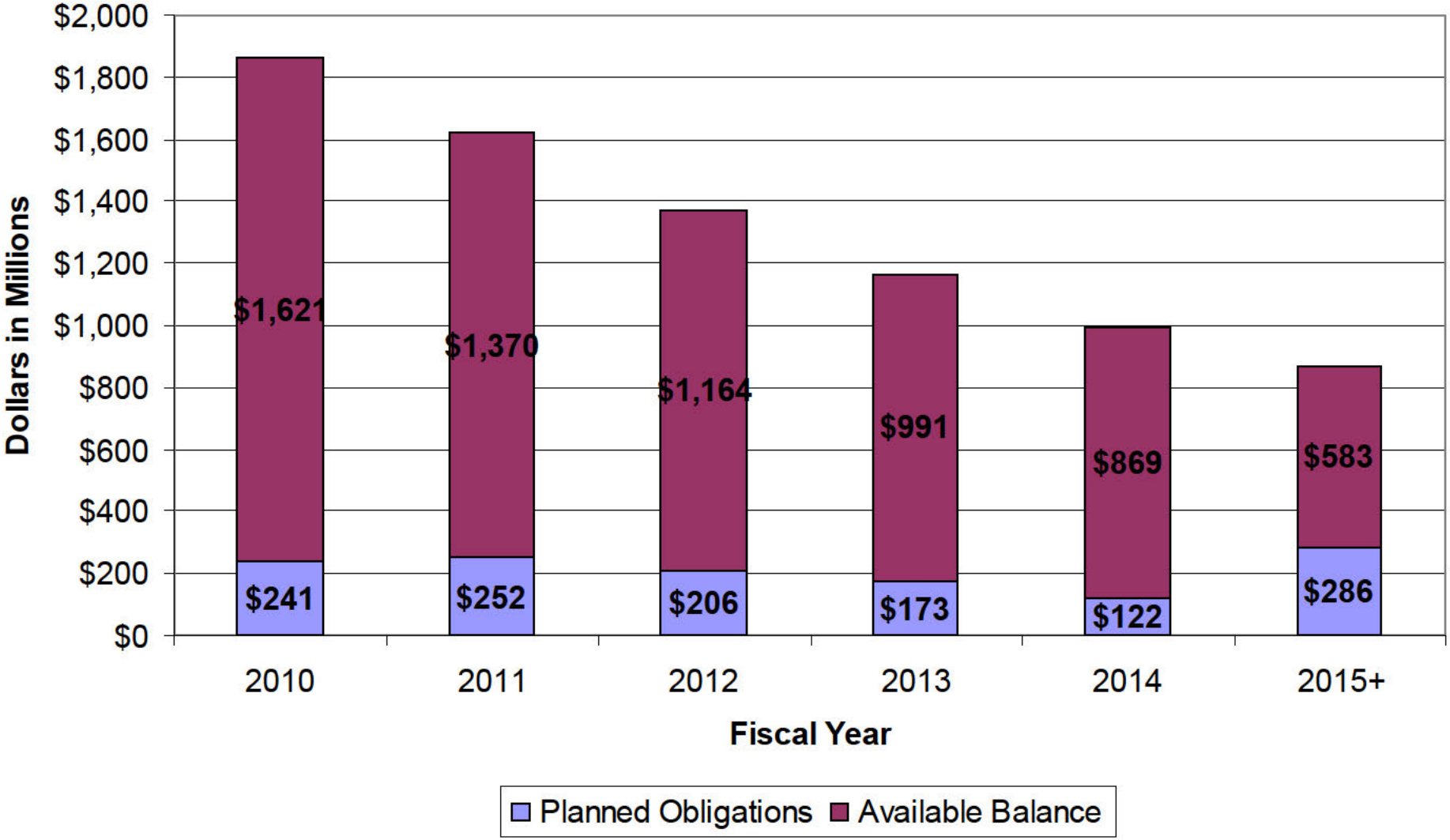
# SA Obligations by Account Available Balance






FDW as of 3/8/10 and CERCLIS as of 3/29/10

# Planned CERCLIS Obligations Effect on SA Available Balance



# Mid-Year Discussions

- Improvements in using the CERCLIS planning screen
- Account-specific questions:
  - Focus areas (e.g., $0 disbursed, CC/Deleted sites)
  - Other plan uses
  - Limitation fields
  - Incorrect use of CERCLIS planning fields
- Additional areas of discussion
  - Status of reclassifications and transfers to the Trust Fund
  - HQ use of SA funds
  - Regional process for updating CERCLIS planning data
  - Other issues

# Mid-Year Discussions Issues/Topics Raised

- New accounts erroneously created from accounting string in oversight bills
- Streamlining the closeout process
- Charging payroll to SAs
- Education for RPMs/OSCs on planning and using accounts
- Updating plans in CERCLIS is very time consuming process
- Is it worth opening some accounts

# CERCLIS Planning Screen Changes

- June 21st release
  - Unliquidated Obligations
  - Amounts by Fund code and Total
- December release
  - New planning fields based on Planning and Use Guidance

# Next Steps

- FY 2011 Work Planning
  - July initial update to planning data
  - August/September discussions with Regions
  - October final FY 2011 work planning data for reporting to Congress
- CERCLIS screen updates for December release
- Develop reports to monitor implementation of Planning and Use Guidance

# Establishing SAs for RCRA Sites

Please see briefing paper

"Special Accounts – Receiving and Using Funds"

# Evaluation of Committee Operations

# Committee Operations

- Current practices
  - Meet at least twice a year
  - SASMC Chair emails updates to members on high profile issues
  - Primary communication is through staff contacts

# Upcoming SA Activities

- Documents
  - Reconvene workgroup to update Financial Management of Special Accounts Guidance (RMDS Ch. 15)
  - Issue revised Sample Memos by August 31, 2010
  - Issue SA Planning and Use Guidance by September 30, 2010
  - Update SA Management Strategy by December 31, 2010
  - Develop fact sheet on Procedures for SA Reclassifications by December 31, 2010
  - Issue guidance on FY 2011 Deobligation Recertification for SF/LUST/Oil Resources which includes a section on Special Accounts by December 31, 2010
  - Complete FY 2010 Annual Report on Special Account Actuals and Planning Data for Congressional Justification by December 31, 2010
- FY 2011 work planning will be conducted July through October 2010
- Revise CERCLIS to implement Planning and Use Guidance for December 2010 release
- OSRTI FMFIA review of reclassifications, transfers, and closeouts to be completed by December 31, 2010
- Baseline review of federal special accounts to be completed by December 31, 2010
- CFC conduct quarterly reviews of special account balances and work with regions to resolve negatives.