



Minnesota
Pollution
Control
Agency

Site
Remediation



Minnesota Pollution Control Agency (MPCA) Offices

Duluth
(218) 723-4660

Brainerd
(218) 828-2492

Detroit Lakes
(218) 847-1519

Mankato
(507) 389-5235

Marshall
(507) 537-7146

Rochester
(507) 285-7343

Willmar
(320) 214-3791

Metro
(651) 296-6300,
toll-free/TDD
(800) 657-3864.

Minnesota's Superfund Program

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The public knows it as “Superfund” – programs at both the state and federal level that focus on investigating and cleaning up old waste sites where contamination poses a threat or potential threat to public health and the environment. This fact sheet provides a simplified overview of how Minnesota implements the Superfund program.

Why was the Superfund program established?

In the late 1970s, it had become clear that the United States’ past industrial and solid-waste disposal practices were posing a significant threat to public health and the environment. In Minnesota, poisonings from buried arsenic, drinking water contamination affecting thousands of people, and sludge lagoons where wildlife died were among the situations that convinced the state of the need for a hazardous waste cleanup program dealing with past releases.

The U.S. Congress enacted the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) in 1980 to deal with federal and priority sites that needed investigation and cleanup. Among its many features, CERCLA required states that used Superfund dollars to provide ten percent of the cost of investigation and cleanup. To fulfill its commitment and deal with sites not enrolled in the federal program, the Minnesota Legislature passed the Minnesota Environmental Response and Liability Act (MERLA) of 1983, a law that complements CERCLA.

Both state and federal Superfund programs involve specific **processes** for investigating and cleaning up sites and **funds** that can be tapped for certain types of cleanups.

What is the Superfund process?

The process begins when a site is discovered that poses a threat or potential threat to public health or the environment. Sites can be identified in many ways:

- Local officials, employees, or site neighbors report the possibility of a problem on a property.
- Potential buyers, sellers, or developers of a property can discover problems during environmental audits.
- Impacts of the site can be detected and traced back to the property, especially if it has adversely affected drinking water or surface water.
- Property owners or operators discover unexpected problems during construction or expansion.
- An emergency (spill, leak or explosion) releases harmful substances into the environment.

While there are many ways to discover a site, both CERCLA and MERLA clearly define who is legally responsible to investigate and clean it up. Superfund is a “polluter pays” law. Under MERLA, responsible parties (or potentially responsible parties) include:





- The past and present owners of a property where a release occurs.
- The operator of a facility from which a release of hazardous substances or pollutants occurred.
- Transporters who knowingly hauled hazardous substances and either selected the site to which it was taken or disposed of it contrary to law.
- The generators of wastes that were sent for treatment or disposal at the property.

At most Minnesota Superfund sites, a responsible party (RP) or group of RPs undertakes investigation and cleanup without requiring the MPCA to take enforcement actions. Responsible parties who undertake investigation and cleanup (under MPCA oversight) can generally reduce the amount of money spent on legal and cleanup costs.

Once a site is discovered, the MPCA's Superfund administrative process would include:

- Scoring the site, using the federal Superfund hazard ranking system, which will provide a preliminary indication of how much risk a site poses to public health or the environment.
- Placing the site on the state Superfund list (Permanent List of Priorities) and possible referral to the U.S. Environmental Protection Agency for the federal Superfund list.
- Identifying RPs and issuing them a Commissioner's Notice, which outlines the reasons why they are considered responsible and informs them of the MPCA's intent to move forward on the site.
- Issuing a Request for Response Action (RFRA) to RPs. The RFRA also describes what the RPs are expected to do to investigate and clean up the problem. RPs often perform investigation or cleanup work under the guidelines in the RFRA.
- If RPs do not take the requested cleanup actions, the MPCA may undertake investigation and cleanup with Superfund dollars and file cost-recovery actions against the unwilling or uncooperative RPs.

Why not just use Superfund dollars?

State Superfund dollars are limited and the state Superfund law restricts the use of public dollars. They may be used for:

- Preliminary site investigations.
- Emergency actions, such as providing drinking water or removing contaminants that pose an imminent threat to public health or the environment.
- Investigation and cleanup of sites where the responsible party is unknown, unable to pay for the necessary work, or unwilling to undertake the work required.
- State matching funds for federal Superfund actions.

How long does the Superfund process take and how much does it cost?

While each site and circumstance are different, the Superfund process generally takes three to five years in Minnesota. The average cost of investigation and cleanup ranges between one to ten million dollars.

Is there an alternative to the traditional Superfund process?

Yes, especially for sites that have the potential for redevelopment. The Voluntary Investigation and Cleanup (VIC) program provides a streamlined investigation and cleanup process for parties willing to work with the MPCA voluntarily. These parties may receive liability assurances that may protect them from future cleanup risks.

For more information...

Contact your nearest MPCA office for more information about Superfund, VIC or other environmental cleanup programs. Or visit the MPCA's Web site: www.pca.state.mn.us/cleanup/index.html.