

MERLA Fact Sheet: Superfund vs. Voluntary Investigation and Cleanup (VIC) Programs

Investigation and cleanup of contaminated or potentially contaminated sites are handled by the appropriate MPCA program based on the **type of contamination** and if there is a **responsible party** for the release or threatened release.

Contamination is detected, reported to MPCA, and funneled to the appropriate environmental program. The MPCA's **Site Assessment Program** may do further investigation before a site is referred to other programs. **This fact sheet covers hazardous substances, pollutants, and contaminants under Minnesota Environmental Response Liability Act (MERLA) [Minn. Stat. § 115B](#) that are funneled to VIC or Superfund programs.** It does not cover Nuclear Regulatory Council, Petroleum Remediation Programs, or Department of Agriculture. Please note that is a summary document that cannot cover all cases or site nuance. Contact MPCA project staff for site specific questions.

VIC Program

The VIC Program is in the Brownfields Section. It's a fee-for-service program for non-responsible parties that provides technical assistance and liability assurance letters under MERLA to promote investigation, cleanup, and redevelopment of property that is contaminated with hazardous substances (i.e., when there is a release).

Voluntary Party (VP)

Applicants to the VIC Program are referred to as voluntary parties because they are **not responsible for the identified contamination** per [Minn. Stat. § 115B.03](#); rather, they voluntarily complete an investigation and cleanup, typically as part of a property transfer, refinancing, or redevelopment project.

Program applicants may include property owners, prospective purchasers, developers, development agencies, lending institutions, nonprofit organizations, and local units of government.

Superfund Program

The Superfund program oversees the investigation and cleanup of sites where contamination by hazardous substances poses an actual or potential threat to public health or the environment, (i.e., when there is a release or threatened release). Superfund requires specific investigation and cleanup processes, designates Responsible Parties as legally responsible for the cleanup, and provide funds for certain types of cleanups under MERLA. At most Minnesota Superfund sites, a responsible party does the investigation and cleanup without requiring the MPCA to take enforcement actions as a cooperative responsible party. Sites listed on the Minnesota Permanent List of Priorities are eligible for state cleanup dollars when there is no RP to pay.

Responsible Party (RP)

A RP is legally responsible for a release or threatened release of hazardous substances, or a pollutant or contaminant, per [Minn. Stat. § 115B.03](#). Release or threatened releases are defined in [Minn. Stat. § 115B.02](#), Subd. 15.

Examples of RPs may include:

- The past and present owners or operators of a property where a release occurs;
 - Persons who owned or possessed the hazardous substance and arranged for the disposal, treatment, or transport of the hazardous substance;
 - Persons who knowingly transported or disposed of hazardous substances in a manner contrary to law; and
 - The generators of wastes that were sent for treatment or disposal at the property.
- See Minn. Stat. § 115B.03 for a complete definition of who is legally responsible person aka a responsible party.

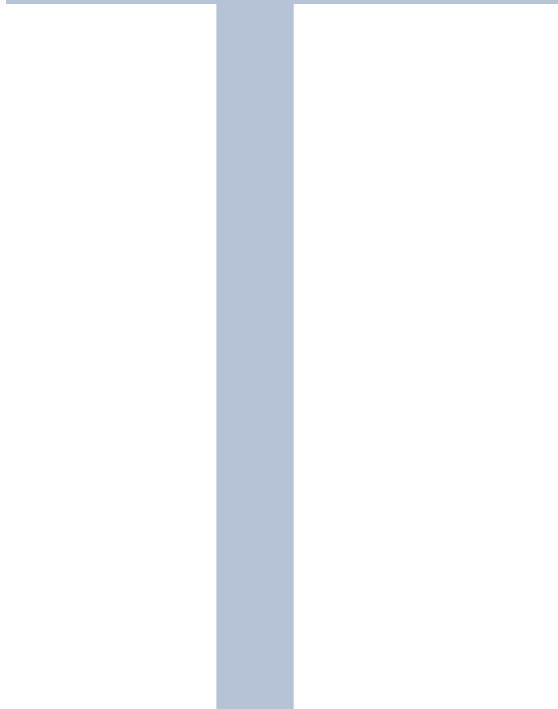
VIC Program Process

Voluntary Party (VP)

VPs are not responsible for the identified contamination, but they voluntarily complete an investigation and cleanup, typically as part of a property transfer, refinancing, or redevelopment project.

A VIC applicant enrolls as a **VP** through the [eServices portal](#) by identifying as a non-RP for the release. The VIC program then evaluates that non-RP status before acceptance.

Site is assigned a **BF#** (Brownfields site ID #) and a VIC Project Manager.



The VP conducts investigation and cleanup.

The boundary of a VIC site is chosen by the VP based on their area of interest. It may be a subset of a property, a specific property boundary, or several properties. If the identified contamination poses a risk to an off-site receptor, VIC refers the potential off-site risk to MPCA's Site Assessment Program for evaluation.

The investigation scope at a VIC site depends on the specific proposed actions and the type of assurance letter being requested. A VP must always investigate and manage risk related to their current or proposed actions on the site.

Sites are closed when identified on-site risks are addressed or a VP withdraws from the program. If on-site risk remains, the site is referred to the MPCA's Site Assessment Program.

A VP can obtain **technical assistance and assurance letters** for releases identified at the VIC site, such as liability assurance and environmental closure letters, and the site is closed. **For more information about available VIC letters see the list of [Brownfield Program Services](#).**

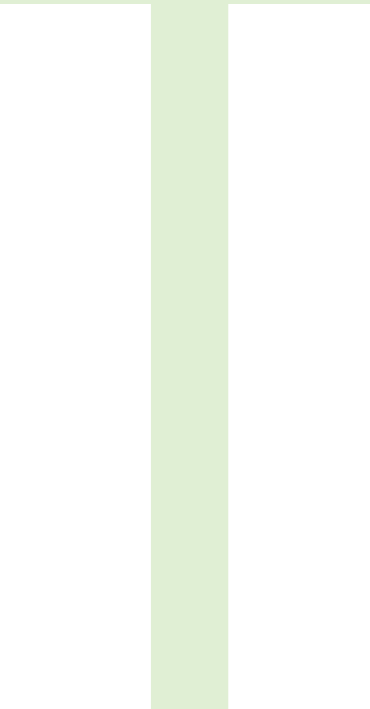
Superfund Program Process

Cooperative Responsible Party (CRP)

A CRP is an RP that undertakes investigation and cleanup MPCA oversight and is working cooperatively with MPCA.

RP enrolls as a **CRP** through the [eServices portal](#) by identifying as a potential RP then working cooperatively with MPCA.

Site is assigned a **SR#** (Superfund Remediation ID #) and an MPCA Superfund Project Manager.



CRPs work cooperatively with MPCA without the MPCA needing to take enforcement actions. *If a CRP no longer cooperates then MPCA initiates a formal process to direct the RP's investigation and cleanup.*

The boundary of a Superfund site is defined at minimum as the area of contamination but may include additional factors. It is not confined by property boundaries.

The investigation scope at a Superfund site must include defining extent and magnitude of all contaminants associated with the release or threatened release in all environmental media. Investigation is not limited to specific proposed actions, property boundaries, or individual media. Sites may need response actions (e.g., mitigation, remediation) to address identified risk to human health and the environment.

Sites may be closed by MPCA when all identified risks are addressed.

CRPs and RPs can obtain **NA Letter** or **NFA Letter** and the site is closed. A No Action (NA) Letter is issued when no response actions are required. A No Further Action (NFA) Letter is issued after an RP or CRP completes all required response actions (on and off-property) related to the release. No media-specific NA/NFA letters are issued.

Responsible Party (RP)

RP is not considered a CRP if they are unwilling or unable to take action and work cooperatively with MPCA as a CRP. MPCA directs investigation and cleanup using enforcement actions and seeks cost recovery.

RP enrolls as a **RP** through the [eServices portal](#) by identifying as a potential RP.

- MPCA initiates a formal cleanup process to direct the investigation and cleanup:
- MPCA sends an **invitation letter** to an unenrolled RP inviting them to enroll as a CRP through eServices.
 - If the RP refuses to enroll, cooperate, or respond, MPCA sends a **Request for Information (RFI)** letter to the RP.
 - MPCA issues a **Commissioner's Notice Letter** to the RP outlining why they are considered an RP and MPCA's intent to move forward and seek cost recovery from the RP on the site.
 - If the RP still does not enroll, cooperate, or respond, MPCA issues **Request for Response Action (RFRA) letter** that identifies actions the MPCA requires the RP to take to protect human health and the environment.
 - If the RP does not comply with the RFRA, MPCA issues a **Determination of Inadequate Response**.
 - MPCA scores the site and lists it on the MN Permanent List of Priorities. If appropriate, MPCA refers it to the US EPA for listing on the federal Superfund list.

MPCA oversees and directs the RP's investigation and cleanup. MPCA will file cost-recovery actions against unwilling or uncooperative RPs.

No RP or RP is unknown

MPCA conducts work

To access Superfund dollars, site risk is assessed using the federal Superfund hazard ranking system and then listed on the Minnesota Permanent List of Priorities (PLP). Some sites are also referred to the US EPA for listing on its federal Superfund list. MPCA also searches for RPs.

MPCA conducts investigation and cleanup with Superfund dollars.