

Minnesota's Superfund Program

Minnesota Legislature passed the **Minnesota Environmental Response and Liability Act (MERLA)**, [Minn. Stat. 115B](#), also known as Minnesota's Superfund Law, in 1983. This fact sheet provides a general overview of how the MPCA implements this law through the state Superfund program.

MERLA provides broad state authority to investigate, identify, evaluate, mitigate, and/or clean up (or direct the cleanup of) releases or threatened releases of hazardous substances, or pollutants or contaminants which pose a risk or potential risk to human health and the environment.

Although MERLA is a "polluter pays" law, [Minn. Stat. 116.155](#) establishes a state **Remediation Fund** for MPCA and the Minnesota Department of Agriculture to use to investigate and cleanup releases or threatened releases of hazardous substances, pollutants or contaminants, and agricultural chemicals and for administrative costs associated with those programs when a legally defined Responsible Party (RP) is not able or willing to take appropriate action, or if a RP no longer exists or is unknown. See MPCA's [Superfund webpage](#) for more info.

Why was Superfund created?

The U.S. Congress enacted the [Comprehensive Environmental Response, Compensation and Liability Act](#) (CERCLA) in 1980 to provide investigation and remediation authorities to address contaminated sites. Among its many features, CERCLA required states that used federal Superfund dollars to finance ten percent of investigation and cleanup costs.

MERLA was enacted in 1983 to fulfill its financial commitment and compliment CERCLA, establishing the state Superfund program and addressing contaminated sites not addressed through CERCLA.

MERLA was later amended to include sections addressing:

- Harmful Substance Compensation (1985)
- Investigation and Cleanup by Voluntary Parties – Land Recycling Act (1992)
- Landfill Cleanup Program (1994)
- Dry Cleaner Environmental Response Law (1995)

[Minn. Stat. 115B.20](#), subd. 6, requires MPCA to submit a Superfund Program Biennial Report to the Legislature identifying activities where MPCA and MDA spent Remediation Fund dollars for Superfund, emergency response, and cooperative cleanup related activities. The report can be found on [MPCA's Cleanup initiatives webpage](#).

What is the Superfund process?

The Superfund process is a series of steps a site moves through and is triggered when a release or threatened release is identified at a site. Sites can be identified in many ways:

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

MERLA defines who is legally responsible to investigate and cleanup a release or threatened release. **Under MERLA, a Responsible Party (RP) may include but is not limited to:**

- The past and present owners or operators of the facility where a release occurred.
- 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.
- 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.

Report spills of any substance under your control immediately!

Call the Minnesota Duty Officer at 800-422-0798 or 651-649-5451 (available 24 hours)

If there is an immediate threat to life or property, call 911 first!

The Minnesota Duty Officer will alert the MPCA and other relevant state agencies.

For more info see Emergency Response webpage:

<https://www.pca.state.mn.us/about-mPCA/emergency-response>

At most Minnesota Superfund sites, RPs conduct investigation and cleanup as a Cooperative Responsible Party (CRP). CRPs work cooperatively with MPCA under Superfund program oversight so that enforcement actions are not required. MPCA bills the CRP for the oversight services, but CRPs generally reduce legal and cleanup costs and may receive a No Action or No Further Action Letter.

To enroll as a Cooperative Responsible Party in Superfund, use [MPCA's e-Services](#).

If RPs are not willing to work with MPCA as a CRP, the MPCA Superfund program will initiate a formal process to direct the investigation and cleanup:

- MPCA sends an **invitation letter** to an unenrolled RP inviting them to enroll as a CRP in Superfund through MPCA's e-services.
- If the RP does not respond or refuses to enroll or cooperate, MPCA sends a **Request for Information (RFI) letter** to the RP. The RFI requests additional site information and activities that occurred at the site.
- MPCA issues a **Commissioner's Notice letter** to the RP outlining why they are considered an RP, along with MPCA's intent to list the site on the Permanent List of Priorities (PLP) and to issue a Request for Response Action (RFRA). The PLP listing is required for MPCA to use state funds to investigate and cleanup the site and recover costs from the RP.
- If the RP still does not enroll, MPCA issues a **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 using the federal Superfund hazard ranking system to assess how much risk it poses to human health or the environment and MPCA places the site on the [PLP](#). If appropriate, refers the site to the U.S. Environmental Protection Agency for listing on the federal [National Priorities List](#).
- MPCA conducts the investigation and cleanup at the site using Remediation Fund dollars. **The MPCA will file cost-recovery actions against unwilling or uncooperative RPs.**

If an RP agrees to undertake the cleanup the MPCA and the RP may enter into a Consent Order, which is a legal agreement that describes actions the RP will take to clean up the site under MPCA oversight.

When can state funds be used for Superfund?

State Remediation Fund dollars are limited by MERLA. In general, funds may be used for:

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

What if I am not a Responsible Party?

The [Brownfields redevelopment program](#) provides a streamlined investigation and cleanup process for non-RPs willing to work with MPCA as voluntary parties (VPs). VPs may receive liability assurances that may protect them from future cleanup risks.

For more information

[What's in my neighborhood](#): Search for known contaminated sites (active and completed sites).

[Groundwater Contamination Atlas](#): Find in-depth info for sites with groundwater contamination.