



Minnesota
Pollution
Control
Agency

1997 SUPERFUND

TD
1042
.M6
S87
1997



This document is made available electronically by the Minnesota Legislative Reference Library as part of an ongoing digital archiving project. <http://www.leg.state.mn.us/lrl/lrl.asp>

Minnesota Superfund Annual Report

Each year, the Minnesota Pollution Control Agency (MPCA) and the Minnesota Department of Agriculture (MDA) prepare an annual report on the Minnesota Superfund Program. The Superfund Program developed from a series of far-sighted state and federal laws enacted to protect public health and the environment by identifying and cleaning up old hazardous waste sites where past disposal practices have resulted in present-day harm. Among those laws:

- The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, the federal Superfund law, which established a process and funding to undertake the then-staggering task of cleaning up the unwanted remains of the United States' industrial past.
- The Minnesota Environmental Response and Liability Act (MERLA) of 1983, the progressive state version of Superfund, which provided a way to address sites not covered by federal law.
- The Minnesota Comprehensive Ground Water Protection Act of 1989, which allowed the MDA to access Superfund authorities and resources for sites involving agricultural chemicals.
- The 1992 Land Recycling Act, which allowed parties who voluntarily cleaned up old sites to receive legal assurances that protect them from state Superfund liability, stimulating the redevelopment of contaminated land that otherwise might stand unused for years.
- The 1994 Landfill Cleanup Act, landmark legislation that removed old, leaking landfills from the Superfund program in order to clean them up more effectively and efficiently at lesser cost.

In 1997, the Minnesota Legislature continued its commitment to cleanup by providing Superfund program funding (\$6.4 million every two years for four years) from the Motor Vehicle Transfer Fund. This commitment allows MPCA and MDA to provide a range of cleanup options, such as:

- voluntary cleanup and "brownfields" initiatives for sites where buyers, sellers, developers or public agencies can work cooperatively with MPCA or MDA to recycle contaminated land;
- enforcement processes under Superfund's "polluter-pays" liability standard for sites that pose significant risks to the public;
- fund-financed cleanups for sites where a viable responsible party cannot be identified;
- small business assistance loans for cleanup of sites where the responsible entity is willing but not financially able to undertake cleanup;
- emergency funds to respond to immediate threats to the public, the environment or drinking water supplies; and
- means to identify and assess sites with unknown impacts on the environment.

This report summarizes the FY 1997 achievements and challenges of cleaning up contaminated land, outlines how fund dollars have been spent on behalf of Minnesota communities, and describes changes in both state and federal approaches. It also describes how cleanup programs will operate in a redesigned MPCA organization.

Superfund Responsibilities

In 1997, the state and federal Superfund laws applied to a number of different types of hazardous waste sites, including:

- 138 state Superfund sites, which are high-priority sites based on public health or environmental risk;
- 31 federal Superfund sites (a subset of the state sites), which the U. S. Environmental Protection Agency (USEPA) considers high priority for cleanup;
- 4 sites with agricultural chemical contamination (another subset of state sites), which the MDA considers high priority for cleanup;
- 895 MPCA Voluntary Investigation and Cleanup (VIC) sites and 89 MDA Voluntary Cleanup and Technical Assistance Program (VCTAP) sites, which are being investigated and/or cleaned up under the 1992 Land Recycling Act;
- Approximately 500 sites listed on the federal Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS), sites where the potential for environmental contamination exists;
- 984 file evaluations, which include reviews of lists, maps or databases for people seeking potential contamination problems associated with specific locations or planning a preliminary investigation of property; and
- 46 emergencies, including chemical leaks, spills or accidents, as well as 294 abandoned barrels or containers.

Responding to Emergency Situations

Superfund dollars often are used to respond to emergency situations involving hazardous waste. Among the types of emergencies for which Superfund is used are tank or pipeline leaks or spills; train, truck or tank accidents; abandoned drums; drinking-water contamination; and other incidents in which chemicals released to the environment could or do pose a public health or environmental threat.

The Emergency Response Units of MPCA's Hazardous Waste Division and the MDA Agronomy and Plant Protection Division are on call 24 hours a day, seven days a week to respond to emergency situations. In 1997, MPCA and MDA responded to 46 declared emergencies, as well as recovery of 294 containers of hazardous waste dumped illegally. The MPCA spent \$76,456 and MDA \$9,731 from the state Superfund to respond to these emergencies. In addition, the agencies spent almost as much on flood response efforts.



Flood Emergency Response

Catastrophic flooding in East Grand Forks (above) and elsewhere in the state filled basements and homes with wastes, some of them hazardous. The MPCA used its multi-site contracts -- including the Hazardous Waste Management Contract under state Superfund -- to provide fast assistance to communities in need of expert help.

The contractors helped to safely sort, package and dispose of household hazardous wastes, doing their best to prevent contaminants from spreading or causing further harm. The MPCA spent approximately \$73,000 from the state Superfund on this effort, along with \$180,000 from the Petrofund to assist with tank leaks and spills.

Discovering and Assessing Sites

Past industrial practices have affected many Minnesota sites, and the Superfund program establishes a process allowing MPCA and MDA to discover, investigate, prioritize and list known or suspected sites. Sites are discovered through reports from citizens, discovery during excavation or development, routine environmental audits, and other methods. Newly discovered sites:

- can be investigated with federal dollars; 73 initial site reviews were completed in 1997.
- can be referred to the voluntary investigation and cleanup programs at MPCA and MDA.
- can be referred to the state or federal Superfund programs; 2 sites were added to the Permanent List of Priorities (state Superfund list) in 1997.

Following trends over the last few years, the number of sites on the Superfund list is diminishing (138 sites) while the voluntary program site inventory grows (approximately 900 at MPCA and 90 at MDA). Reasons for this change include the completion and delisting of formerly listed Superfund sites, the appeal of legal assurances provided by the voluntary programs, the move by responsible businesses to more cooperative modes of environmental response, and the gradual delisting of sites not well suited to the Superfund process. In 1997, for example, 14 closed and 10 open MPCA-permitted sanitary landfills (which have permit conditions that require proper cleanup and closure) were removed from the Superfund list.

While the Superfund program may be managing fewer sites than the voluntary programs, it will always be a necessary component in the state's toolbox of cleanup strategies. As the voluntary programs mature, sites where voluntary parties withdraw will be referred back to the Superfund process.

Site Investigation and Cleanup

As in the past, during FY 1997 the majority of cleanup activities in Minnesota have been financed with private funds from responsible parties. Of the approximately \$39.1 million spent on cleanup activities in 1997, \$32.5 million (or an estimated 83 percent of the total) was funded by responsible parties. (This does not include sites in the voluntary programs.) Since the beginning of the state Superfund program, approximately 80 percent of site investigations and cleanups have been financed by responsible parties. This reflects the state Superfund program's commitment to first encourage parties responsible for site contamination to work cooperatively with the MPCA or MDA on investigation and cleanup work.

Brownfields

"Brownfields" is a popular term for sites that have potential for development and re-use, but need an assessment to determine whether they have any environmental liabilities. Funding programs focused on brownfields assessment include:

- USEPA Brownfields Investigation funding, which allows MPCA to spend approximately \$150,000 per year looking at abandoned properties; and
- Department of Trade and Economic Development's Contamination Cleanup Development Grant Program, providing funding for communities working to clean up sites with high development potential.



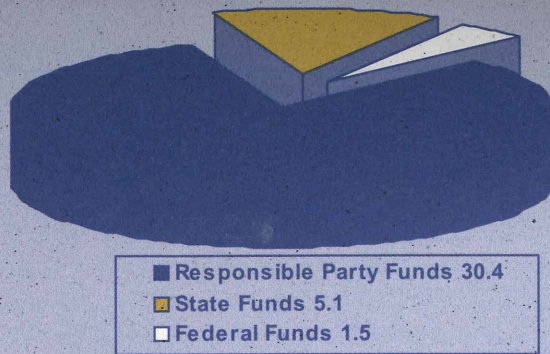
RECEIVED

JAN 05 1998

LEGISLATIVE REFERENCE LIBRARY
STATE OFFICE BUILDING
ST. PAUL, MN 55155

ANNUAL REPORT

FY 1997 Site Cleanup Expenditures (in Millions)



State and federal Superfund dollars are used to select the site remedy and oversee investigation and cleanup work by responsible parties. If the MPCA or MDA cannot identify responsible parties, or if those parties are unable or unwilling to pay for site activities, state and federal funds are used to complete work and, if appropriate, recover agencies' costs upon completion of the work.

Federal funds pay for activities at federal sites, studies and pilot programs, staff training, and other management activities. The state Superfund pays for site investigation and cleanup, as well as the required 10 percent state match for federal dollars coming into Minnesota to manage and clean up National Priority List sites. In FY 97, \$5.1 million from the state Superfund and \$1.5 million in federal funds were used for cleanup activities.

Voluntary Cleanup Approaches

The MPCA and MDA provide technical assistance and legal assurances to voluntary parties who agree to investigate and/or clean up contaminated sites. Minnesota was one of the first states to establish a voluntary cleanup program, and the MPCA VIC Program has received national attention and become a model for other states. The legal assurances provided by the VIC and VCTAP Programs give potential buyers, sellers or developers of property the security that they will not have to take on liabilities that are not theirs. This allows land-use plans to move forward, bringing jobs and an improved tax base into communities otherwise burdened with unusable sites.

Since 1988, 895 sites have entered the MPCA VIC Program and 89 the VCTAP, and 594 VIC and 27 VCTAP sites have been cleaned up or found acceptable for property transfer. Currently, an average of five new sites enter the VIC Program weekly. In 1997, 172 sites were enrolled for VIC services and 29 for VCTAP.

MPCA and USEPA have signed a Memorandum of Agreement that allows the state to review and approve investigations and cleanups with the assurance that USEPA will not seek further action on state decisions. The MPCA also received program funding for "brownfields" work for sites in areas of the Twin Cities. (Brownfields are old

Phalen Corridor Initiative

The history of St. Paul is tied irrevocably to the railroads -- and so are some of the city's current-day redevelopment plans. The Phalen Corridor Initiative is a community-wide redevelopment effort to reuse approximately 100 acres along a new boulevard extending from I-35E through the city's east side. The St. Paul Port Authority entered the VIC Program in 1994, working in partnership with St. Paul Planning and Economic Development, St. Paul District Councils, Ramsey County, business associations, foundations and employers. The Williams Hill site, located at the entrance to the Phalen Corridor (35E and University Avenue), anchors the new initiative, and the Port Authority spent \$1.5 million to clean up on-site contamination. By developing a 25-acre business park on the site, the Port Authority estimates that St. Paul will collect an estimated \$475,000 more in property taxes each year and bring 325 new jobs to the city. Building sites will be available for industrial uses by the end of 1998.

East End Redevelopment
Approximately 15 total acres of
vacant and underused industrial
property. Redeveloped to
industry with the inclusion
of secure residential areas.

Williams Hill 17

industrial properties that buyers and developers do not want because of known or suspected environmental problems.) In addition, the Minnesota Legislature appropriated funds for brownfields predevelopment work to DTED. Reimbursements from voluntary parties pay for MPCA and MDA oversight costs. The outcome: more sites moving into cleanup and, from there, into productive use.

Property Transfer File Evaluation

The Property Transfer File Evaluation Program provides information to the public from the files and databases of the agency. In FY 1997, the MPCA performed 984 routine evaluations of data lists, maps or databases for customers outside the agency. The evaluation provides reports of all known or potential contamination sites within a one-mile radius of a given property address, allowing a property buyer or environmental consultant investigating the property to obtain pertinent information. Users are charged a reasonable fee for the service.

Superfund Legal Issues

The Minnesota Attorney General's Office works in partnership with the MPCA and MDA on legal issues that are key to the continued effectiveness of the law. In 1997, actions included:

- settling a cost-recovery action against MacGillis & Gibbs, New Brighton, both a state and federal site, which will provide MPCA with 10 percent and USEPA 90 percent of available insurance proceeds. In addition, the MPCA, USEPA and City of New Brighton entered the first-of-its-kind Prospective Purchaser Agreement to facilitate redevelopment of the site by the city.
- entering a Consent Decree resolving litigation at the Schnitzer Iron and Metal Company site in Minneapolis, involving the first agreement to provide Superfund dollars for the "orphan share" of sites where only some of the responsible parties are financially viable since the Minnesota Legislature's decision in 1997 to allow such settlements.
- joining 27 other states in a "friend of the court" brief that helped reverse an Alabama federal district court ruling that would have weakened the federal Superfund liability standard.
- completing settlement of cost-recovery actions for the Schloff Chemical Company site in St. Louis Park, providing \$547,000 to MPCA for its past costs.

Public Information and Community Involvement

As more sites have moved into voluntary or cooperative modes of cleanup, MPCA and MDA site teams have assumed more responsibility in communicating with partners in the cleanup process, including local governments, elected public officials, development groups, environmental groups, businesses, other state agencies and citizens. The agencies reach the public through calls, meetings, fact sheets, community work groups, updates and other methods. Working with the MPCA Public Information Office and MDA Office of Communication, cleanup program staff are developing new ways to make policy and site information available to the public on the internet at <http://www.pca.state.mn.us> (MPCA) and <http://www.mda.state.mn.us> (MDA), develop regional community relations plans to streamline activities and take advantage of a talented network of MPCA regional information officers established in 1997.

Thinking Strategically: The Role of Cleanup Programs in the New MPCA

Throughout 1997, the MPCA has been engaged in intensive strategic planning efforts which are culminating in new directions and structure for the agency. In brief, the four key strategies that will direct the efforts of the new MPCA include:

- shared goals - making sure that all participants in the environmental protection process are working together.
- strategic alliances - forming partnerships that help leverage resources and achieve goals.
- outcomes-based decisionmaking - developing plans and processes that focus on significant reductions in pollution and improvements in the environment.
- becoming a learning organization - developing the flexibility to learn from both achievements and errors.

The MPCA's cleanup programs will provide an excellent proving ground for these new strategies. Under current cleanup processes, a single Superfund site may have regulatory staff from several programs involved in oversight of investigations and cleanups - often with mixed results. Under the proposed structure, remediation will be a core function, and programs (such as Superfund, VIC, Tanks and Spills, Closed Landfill Program, Emergency Response and Resource Conservation and Recovery Act cleanups) will be involved in cleanup teams. Each of three districts (Metro, Northern, and Southern) will have a cleanup team. There are several advantages to this structural change:

- It will achieve coordination among programs by organizing cleanup teams for both major and regular facilities.
- It will assure consistency in policy and guidance. For example, cleaning up solvent-contaminated ground water should take place under similar guidelines, whether that ground water is located beneath a current-day permitted facility, an old abandoned site, or a landfill.
- It will broaden the knowledge and experience of the staff. If an entire staff team shares knowledge, rather than looking at sites only in the context of one set of regulations, it will give staff a better "big picture" view.
- It will eliminate duplication of services and maximize staff resources.
- It will help MPCA staff to propose better legislative solutions to cleanup problems and prioritize sites appropriately.

While this substantial change in structure and process is underway, there may be an initial "down time" to develop consensus among programs and streamline processes to achieve the desired outcomes. However, the effort required to build this foundation will pay big dividends in the future. These innovations will help Minnesota maintain its position as a national leader in cleaning up wastes that threaten public health and the environment.



Legislative Actions

The Minnesota Legislature continued its commitment to site cleanups by:

- providing \$6.4 million per biennium to support the Superfund program;
- allowing the MPCA to provide incentive for cleanups by picking up "orphan shares" (percent of costs belonging to nonviable responsible parties); and
- modifying a law that established a fund to cover part of the cost of cleaning up old drycleaning sites.

Risk-based Decisionmaking: A Common-Sense Approach to Cleanup

The MPCA Site Response Section is completing a comprehensive guidance manual on how to make decisions based on risk. It will serve as guidance to make decisions which will:

- eliminate or minimize health and environmental risk by removing the hazardous material or interrupting the exposure route;
- identify current and future land use;
- favor detoxification and treatment of waste;
- reduce transfer of contaminants from one medium (such as soil) to another (such as air); and
- balance the criteria above with issues of technical feasibility, cost and community acceptance.

The goal is to make sure risk assessment is incorporated into the process early, which will save time and money by focusing effort on risk reduction. The question, instead of "What contaminants are present at the site?" will be "How could contaminants get to people or the environment — now or in the future?"

Sites with few such "pathways" to people or the environment may not require a great deal of investigation or cleanup. Sites with clear and straightforward pathways require more investigation and a cleanup decision that will prevent contaminants from reaching people or the environment. Sites that are complex or have perhaps many pathways to sensitive populations or environmental resources require the most detailed investigation and protective cleanup plans.

The procedures for risk-based decisionmaking are being developed by staff with expertise in risk assessment, soil science, hydrogeology and cleanup technologies. Good science and future land use determine how a site is addressed. However, MPCA staff will need to couple risk-based decisions with communication and education efforts. Responsible or voluntary parties must know what liabilities pertain or restrictions apply to sites where contaminants remain. Land-use decisions must be clearly delineated by local governments. Communities must be educated on how contaminants move in the environment. It is crucial that communities be involved early and often during the risk-based decisionmaking process.

Harmful Substance Compensation Claims

The Harmful Substances Compensation Act provides compensation for individuals who have suffered personal injury or property damage due to hazardous waste exposure. During 1995, the Minnesota Legislature transferred this responsibility to the MPCA.

In FY97, the MPCA compensated a family in Granada, Minnesota, \$5,850 for property losses incurred due to a nearby storage tank leak.



ANNUAL REPORT

Minnesota's Superfund Program

MERLA Expenditures and Income Table

Balance Forward 7-1-96	\$6,174,000	
Plus Prior Year Adjustment	\$45,000	
Adjusted Balance Forward	\$6,219,000	
Income to the Fund	FY 97	FY83-97
Appropriations	\$0	\$19,400,000
Superfund/VIC Reimbursements, Penalties	\$2,376,000	\$30,115,000
Hazardous Waste Generator Tax	\$1,782,000	\$14,713,000
Interest	\$347,000	\$9,178,000
Hazardous Waste Revolving Loan Program	\$4,000	\$10,000
Less Revenue Refund	(\$213,000)	(\$1,777,000)
Total Income to the Account	\$4,296,000	\$71,639,000
Expenditures from the Fund	FY97	FY83-97
Oversight/Administrative (MDA \$292,000)	\$4,257,000	
Site-Specific and Support Costs (MDA \$12,000)	\$793,408	
Natural Resource Damages	\$22,000	
Department of Revenue Processing Costs	\$1,000	
Hazardous Waste Generator Loan Program	\$0	
Unliquidated Obligations (MDA \$1,145)	\$70,597	
Subtotal of Account Expenditures	\$5,144,005	\$66,224,000
Transfer to the General Fund		\$44,000
Total Expenditures and Obligations	\$5,144,005	\$66,268,000
Account Balance 6-30-97	\$5,370,995	

The **MERLA Expenditures and Income Table** details MERLA programmatic FY 1997 and cumulative expenditures and income. Reimbursements to the Account in FY 1997 covered 54 percent of the program's administrative costs. MPCA's/MDA's administrative costs represent salaries for staff as well as travel, equipment, non-site-specific legal costs, and supply expenditures associated with responding to emergencies and implementing site cleanups.

**For more
information, visit
MPCA's and
MDA's web sites.**

[http://www.
pca.state.mn.us](http://www.pca.state.mn.us)

[http://www.mda.
state.mn.us](http://www.mda.state.mn.us)

The **Minnesota Superfund 1997 Legislative Report** is a publication of the MPCA's Ground Water and Solid Waste Division. It was prepared by:

MPCA Site Response

- Rich Sandberg, Manager
- Johnna Benke

MDA Agronomy Services

- Paul Liemandt, Manager

Minnesota Attorney General's Office

- Alan Williams

MPCA Public Information Office

- Katherine Carlson

For more information about contaminated land, call MPCA Public Information, (612) 296-6300 or toll-free (800) 657-3864.



Minnesota Pollution Control Agency

Ground Water and Solid Waste Division
520 Lafayette Road
St. Paul, MN 55155-4194

First-Class
U.S. Postage
PAID
Permit No. 171
St. Paul, MN

Upon request, this report can be made available in other formats, including Braille, large type or audiotope. TTY users please call (612) 282-5332 or toll-free at (800) 657-3864. Printed on recycled paper using 100 percent postconsumer