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Superfund Today

FOCUS ON PROPERTY ISSUES

Property Owner Rights

Property Values

Buying & Selling Property

Liability

How Can a Superfund Site Affect My Property?
Answers to Frequently Asked Questions

If you are like most people faced with the possibility or certainty of a hazardous waste site in your community, you probably have many questions about what is happening and how you will be affected. Concerns about your property may be an issue. How will my property values be affected? Who pays for cleanup? Who can help me? This fact sheet answers many of these questions; however, the information applies only to sites under the U.S. Environmental Protection Agency's (EPA) Superfund program.

What Is Superfund?

EPA's mission is to protect human health and to safeguard the natural environment. In support of this mission, the Superfund program responds to threats posed by uncontrolled releases of hazardous substances into the air, water, and soil. Releases that pose immediate threats are responded to first. EPA then determines if there is a need for long-term cleanup of hazardous wastes. Sites that require a long-term cleanup are added to Superfund's National Priorities List (NPL). When a site is on the NPL, it undergoes a comprehensive evaluation to determine the nature and extent of contamination, an estimation of current and future risks, an analysis of cleanup alternatives, and the design and construction of the selected cleanup plan. EPA ensures that sites are cleaned up to a level that protects people who live, work, or play on or around the site, including community members who may be at greater risk, like the elderly and children.

While the Superfund program focuses on protecting a community's health and surroundings, EPA understands that cleanup activities may directly affect individual properties. Within the limits of the Superfund law, EPA works with the affected community to find a cleanup solution that is safe, effective, and minimally disruptive. EPA recognizes the importance of working closely with affected residents to provide accurate information about the site and respond to your concerns. EPA is always willing to answer any of your questions and invites your feedback.

The following pages provide the answers to questions most commonly asked about the effects of hazardous waste sites on people's property. The questions are divided into four areas: property owner rights; property values; buying and selling property; and liability. The answers will help you understand how EPA can assist you and direct you to other resources that are available to help you. By understanding Superfund's responsibility for hazardous waste sites in your area, you can take an active role in protecting the health of your community and the value of your property.

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Property Owner Rights

If you are a property owner in a community near a Superfund site, you may be concerned about the potential effects the hazardous waste may have on your property and your daily routine. EPA assists neighborhoods by informing all concerned citizens about cleanup activities on or around a site, and by giving community members opportunities to voice their opinions and concerns. The following questions and answers provide information for property owners on private property rights, protection from liability, and available EPA assistance.

Q My property is located near a Superfund site. How can I find out if EPA has investigated pollution problems on my property?

A EPA is responsible for keeping the community informed about site investigations and cleanup activities on or around the site. If a sampling program is planned for your area, EPA will notify you through a newspaper ad, or a fact sheet, or in person. EPA sets up an information repository for each Superfund site, so interested community members may review all sampling results and other information known about a particular site. Information repositories are usually kept at a local library or government office. If the federal EPA program is not involved in a site in your area, your state or local environmental and health agencies may have information on pollution problems that may be affecting your property. Many, but not all, states have laws—called *disclosure* laws—that require owners to give information on known or possible pollution problems on or near their property. Also, local lending institutions or real estate agencies may have information on environmental investigations of your property.

Consult LOCAL Experts About:

- ✔ Effects on Property Values
- ✔ Adjustments to Property Taxes
- ✔ Refinancing in Case of Devaluation
- ✔ Property Value Trends, Forecasts, and Rebounds

Q My property is located near a Superfund site. Will EPA take samples on my property upon my request?

A Living near a Superfund site does not necessarily mean that residential property is contaminated. When EPA first discovers a Superfund site, preliminary tests may be taken to determine if additional sampling is needed, including potential sampling of residential property. If EPA suspects that contamination from a Superfund site may be present on residential property, EPA may request permission from property owners to take samples. EPA will work with individual property owners to determine if there is a need to sample the property. Likewise, if property owners suspect contamination from a Superfund site is on their property, they should contact their regional EPA office (see contact list) or their state or local environmental agency. To report any immediate hazardous waste spill or problem, please contact the National Response Center at 1-800-424-8802.

Q Will EPA release specific addresses at which samples have been taken?

A EPA tries to respect individual's privacy concerns and does not release specific property owner's names to the general public. However, reports with address information and all other sampling data are made part of the public record. EPA will send letters with the sample results only to those whose property was sampled.

Q Can I refuse or limit EPA access to my property? If EPA uses my property for sampling or well installation, will I be paid?

A Property owners can refuse to allow EPA onto their property. However, the Superfund law does give EPA the authority to conduct sampling activities at residential properties if there is a reasonable basis to believe that a threat to human health and the environment exists. EPA will work to accommodate property owners' schedules and to conduct investigative sampling activities with as little inconvenience to property owners as

Q If my loan is denied because of concerns about contamination, can EPA call my banker or appraiser?

A EPA does not become involved in individual real estate transactions; however, agency representatives can conduct presentations or provide information about site cleanup plans for the public, including the real estate and lending/financial community.

Q Do I have to disclose the contamination on my property to potential buyers?

A Some states have disclosure laws that require owners to report pollution problems to buyers when they sell a property. Contact a real estate representative, state and/or local government agencies, or an attorney; they should be able to quickly tell you if your state has such a law or if there is a deed restriction on your property.

Q Can a homeowner perform a cleanup to ensure that he or she will be able to sell their property?

A Yes, a homeowner can perform a cleanup, but it is not very common, for two reasons. First, in order for a homeowner to perform a cleanup, EPA must certify that the owner can meet national health and safety standards. Second, once the owner takes responsibility for a cleanup, it makes him/her liable for any future pollution problems (release or threat of release of contaminants) as a result of the cleanup—**forever**.

Liability

EPA understands that personal liability is also an area of concern when investigating cleanup sites adjacent to private property. This is especially important for new property owners and prospective purchasers, as well as for the lending institutions that will be responsible for the mortgage. By working with EPA in relation to a specific Superfund site, residential property owners and prospective purchasers can ensure they won't be held responsible for pollution that was present on a property prior to the time of purchase. The following questions and answers will help residential property owners understand potential liability issues.

Q Can I be held responsible for pollution on my residential property?

A EPA will not take actions against a residential home owner, unless the owner polluted the site or made existing pollution problems worse (a release or threat of release of hazardous substances) and forced a cleanup action by EPA at the site.

Q My property sits above contaminated groundwater. Am I liable?

A You can be held liable for contaminated groundwater if you are responsible for the initial pollution, or if you have done anything to increase the amount or spread of contamination. EPA will assist property owners if someone tries to make them pay for groundwater contamination for which they are not responsible. EPA may exercise its enforcement discretion and enter into a *de minimis* settlement with an owner of property that has contaminated groundwater when that owner has been sued or threatened with a contribution suit. The property owner must also meet the conditions of the "Policy Toward Owners of Property Containing Contaminated Aquifers" (May 24, 1995 PB96109145). This document is available for free on OSRE's Internet site http://www.epa.gov/OSRE/950524-1.html or by contacting the Superfund Document Center at (703) 603-9232.

Q As a potential purchaser of a piece of property that is on or near a Superfund site, what would my responsibility be for contamination that existed at the time of purchase?

A Your responsibility would be minimal if any. EPA will work with the individual and can enter into an agreement with potential purchasers not to sue the purchaser for contamination that existed at the time of purchase.

Q What can I do if my property value goes down because of a Superfund site?

A Property owners may want to consult with local government officials about the possibility of property tax abatements or adjustments, based on impacts on property values from pollution concerns; however, this is beyond the authority of the federal government. In some cases, property owners have consulted an attorney about the possibility of recovering the lost property value from the potentially responsible party or parties (the polluters). Based on past cleanups, EPA believes that a Superfund cleanup has an overall beneficial impact on the community, including rebounding property values.

Q My property sits above contaminated groundwater. How will this affect my property value?

A EPA cannot predict how contaminated groundwater will affect individual property values. A good resource for property value information is a local government agency—such as your local taxing authority or planning commission—or a local real estate professional. They are more experienced in appraising property values and determining the effect of contamination on property values.

Q Will there be an immediate appraisal of my property to adjust my tax status?

A Local and state tax authorities can best answer this question, because they are responsible for all appraisal activities in your community. It is beyond EPA's authority to appraise property or adjust tax status, and EPA does not request tax authorities to re-assess properties. Property owners may want to consult with local government officials about the possibility of property tax abatements or adjustments, based on impacts on property values from pollution concerns; however, this is beyond the authority of the federal government.

Q Will I be able to refinance my loan due to the devaluation of my property?

A This is a question that is best answered by your lending institution.

Q Do property values rebound? How long will it take?

A Previous research indicates that contaminated sites, including Superfund and other types of hazardous waste sites, are likely to affect nearby residential property values. Studies estimate property price reductions, due to nearby hazardous waste sites, range from two to eight percent of the value of the property. One study of several Superfund sites in Houston, Texas found that property values rebounded fairly quickly following completion of cleanup activities. Property values are most appropriately discussed with local authorities knowledgeable about the local economy and other local conditions that may influence property values.

Buying & Selling Property

When buying or selling property, people usually have questions about neighborhood property values; how changes in property value impact mortgages, taxes, and resale; how property owners can increase their property value; and what information a property owner must tell a potential purchaser. This section provides information on what environmental information either you or EPA needs to disclose about a specific site, how EPA can support you through the transfer of property, and actions you may choose to take to increase the value of your property.

Q What information can EPA provide to potential buyers of property located near a Superfund site?

A EPA makes a wide variety of information available to potential buyers, including background information on the Superfund program, its activities and responsibilities, and opportunities for public participation. Site-specific information can be accessed from your neighborhood Superfund public information repository (usually at the local library or government office) and your regional EPA office (a list of regional phone numbers can be found at the end of this document) if there is a federal Superfund site in your neighborhood.

possible. EPA cannot pay property owners for taking samples from their property. To the extent possible, EPA tries not to disturb the property. In the event that property is disturbed during sampling or cleanup (e.g., damaged grass, back hoeing of soil during cleanup, etc.), EPA will restore the property to its original condition to the extent possible.

Q Can EPA move me from my property? How long can they keep me away from my property?

A While it rarely happens, EPA can move residents as part of a cleanup action to protect human health and the environment. In the past, EPA has relocated residents because either an immediate risk existed that could not be minimized without moving people, a site cleanup was difficult or impossible because contamination was very near or under homes, houses were contaminated and EPA could not decontaminate them, or EPA personnel were safeguarding the health of residents during the cleanup action. Relocation may be temporary or permanent, depending on EPA's ability to clean property to a condition where the contaminant(s) no longer threaten human health or the environment.

Q Can EPA take part or all of my property? Will I be paid if EPA does take my property?

A EPA makes every attempt to clean up sites with minimum inconvenience to property owners, and property is only acquired or taken from owners when necessary to protect citizens' health or environment. EPA has acquired all or part of a property in situations where it was necessary to address a serious health problem or a cleanup could not proceed without that property. In cases like these, EPA will provide an explanation to the property owner for this action. By law, EPA must pay the property owner fair market value for any land acquired.

Property Values

Property values can be affected by a number of environmental factors: perceived health risks; impacts on safe drinking water; air pollution; odor; construction activity; and noise. Factors that may reduce the impact on property values include distance from the site and the presence of a geographic buffer, such as a hill, railroad, river, forest, or divided highway. The following questions and answers provide more information on the effects of Superfund sites on property values.

Q What is happening to property values in my neighborhood?

A EPA suggests you consult a professional in your community who can give you a more accurate and current answer. Real estate agents, banks and other lenders, appraisers, and public and private assessors should be able to answer this question for you. Local government agencies—such as your taxing authority or planning commission—may also be able to give you information on property values.

Q My property values have gone down as a result of being on or near a Superfund site. Can EPA pay me for the property value I have lost?

A EPA is very concerned about potential adverse effects on property value that may result when a Superfund site exists near a community. However, the Superfund law does not authorize EPA to compensate individual homeowners for losses of property value or other potential damages associated with designating an area as a Superfund site.

Visit our web site at:
http://www.epa.gov/superfund

Q Is a bank or other lender liable for contamination if it lends money (or has lent money) to owners or developers of contaminated property?

A It is EPA's policy not to pursue cleanup cost repayment from lenders who merely provide money to an owner or developer of a contaminated property, provided that lenders do not participate in daily management. If it meets the requirements of CERCLA's "secured creditor exemption," a bank or other lender that loans money to owners or developers of contaminated property will not be liable as an owner or operator of a Superfund facility. In general, the lender should avoid participating in the daily management of the facility. The secured creditor exemption describes various activities that lenders can undertake without losing their protection from owner/operator liability. For example, lenders can investigate a facility, require another person to clean up the facility, and provide financial advice to a borrower.

For More Information

If you live on or near a Superfund site, all site-specific information is available to you at the local Superfund public information repository. General information is also available through your EPA Region's web site, accessible from EPA's home page **(www.epa.gov)**. You can speak with someone directly through the toll-free Superfund/RCRA Hotline (1-800-424-9346) or one of the following regional phone numbers (*800 and 888 numbers only work within the Region except Region 4):

Region 1	*CT, ME, MA, NH, RI, VT*	(617) 918-1064 (888) 372-7341*
Region 2	*NJ, NY, Puerto Rico, Virgin Islands*	(212) 637-3675 (800) 346-5009*
Region 3	*DE, DC, MD, PA, VA, WV*	(215) 814-5131 (800) 553-2509*
Region 4	*AL, FL, GA, MS KY, NC, SC, TN*	(404) 562-9947 (800) 564-7577
Region 5	*IL, IN, MI, MN, OH, WI*	(312) 353-2072 (800) 621-8431*
Region 6	*AR, LA, NM, OK, TX*	(214) 665-8157 (800) 533-3508*
Region 7	*IA, KS, MO, NE*	(913) 551-7003 (800) 223-0425*
Region 8	*CO, MT, ND, SD, UT, WY*	(303) 312-6312 (800) 227-8917*
Region 9	*AZ, CA, HI, NV, U.S. Territories*	(415) 744-2178 (800) 231-3075*
Region 10	*AK, ID, OR, WA*	(206) 553-1352 (800) 424-4372*

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United States
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Agency (5204G)
Washington, DC 20460

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