United States
Environmental
Protection Agency

Office of Solid Waste and
Emergency Response
(5204G)

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EPA

Superfund Today

FOCUS ON CLEANUP COSTS

The Buck Stops Here

Polluters are Paying for Most Hazardous Waste Cleanups

Cleaning up hazardous waste is Superfund's highest priority. And the public's demand that polluters pay for cleanup also makes it critical that EPA find those who are responsible. At more and more Superfund sites, polluters are "stepping up to the plate" to clean contaminated air, soil, groundwater, and surface water. This cooperation, coupled with EPA's enforcement activity, is increasing the number of polluters involved in cleanup activities. In fact, in 1995, those responsible for contamination performed 75% of new Superfund cleanups and, since 1980, have committed to pay more than $11 billion toward these cleanups (see graph).

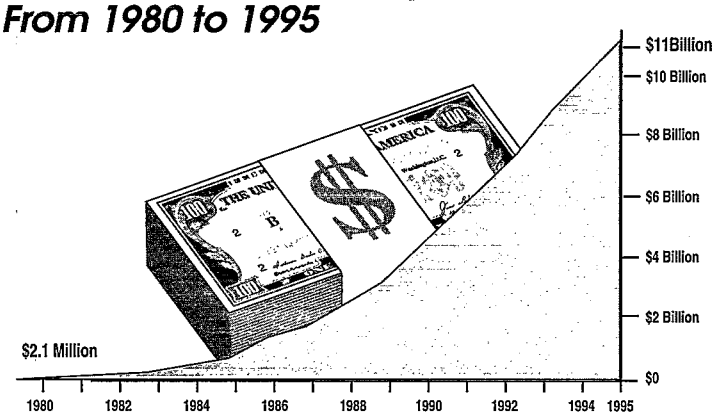
When those responsible for hazardous waste contamination cannot be found or are unable to pay, EPA uses money from the Trust Fund, known as the Superfund, to clean up the worst of these sites. The Trust Fund is financed mostly through a special tax on the petroleum and chemical industries, and from environmental taxes collected from industries whose production has an impact on the environment. In emergency situations where the public is at immediate risk from the contamination, EPA will use the Trust Fund to pay for initial cleanups and look for and negotiate with the polluters later. Whenever the Trust Fund is used, EPA attempts to recover the cost of cleanup by taking legal actions, if necessary, against those responsible.

Regardless of *who* is responsible for contaminating the environment and *who* pays for the cleanup in the long run, reducing the threat to the public and the environment is EPA's first and foremost concern.

Did You Know...?

- In 1995 alone, over $670 million was spent cleaning up hazardous waste.
- In 1995, polluters performed 75% of new Superfund cleanups.
- 78% of the Superfund Trust Fund has come from chemical, petroleum, and corporate taxes.
- 62% of the Trust Fund has been spent on site cleanup response.
- 700,000 tons of hazardous waste are produced in America every day.

Those Responsible for Contamination Have Committed to Pay Over $11 Billion From 1980 to 1995

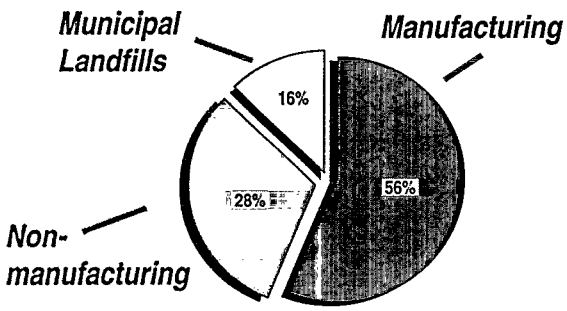


A Nation Dealing With Hazardous Waste

What is the Problem...

Even though we know more about reducing and controlling hazardous waste today than we did in the past, America still produces 700,000 tons of hazardous waste every day. That adds up to 250 million tons per year—enough to fill the Superdome in New Orleans 1,500 times.

The waste comes from many sources. Most of it is produced by manufacturers including makers of chemicals, petroleum, metal, textiles, and electric equipment, as well as businesses that treat wood, produce food and paper, and undertake construction. Other sources are non-manufacturing, such as governments, the military, hospitals, and universities. Municipal landfills, a combination of relatively harmless household waste and some industrial waste, also are a part of the hazardous waste problem. Certain hazardous wastes are more harmful than others. Some of these wastes have not been safely handled and have polluted the environment.



Types of PRPs at Superfund Sites

...Who is Responsible...

Today we have the technology and the laws to control hazardous waste production and disposal. But yesterday's waste sites still exist. Figuring out who is responsible for cleanup is a big job.

The public has demanded that those who produced and handled the waste clean it up. At Superfund sites, EPA tries to identify those likely to be responsible for causing or contributing to the hazardous waste contamination. They are called "potentially responsible parties," or PRPs. Many of these parties did not break existing laws when they disposed of their hazardous wastes. However, under today's tougher environmental laws, they are considered responsible if they caused the waste or even carried waste to a site. The PRPs for a Superfund site can include large or small companies, past or present owners, individuals, and even Federal agencies. Often a site, such as a landfill, will have hundreds of PRPs because many different individuals and groups have stored or sent waste there.

...and How Do We Pay for Cleanup?

Superfund requires those responsible for hazardous waste sites to pay for or perform the cleanup. After a site is discovered and any immediate dangers are taken care of, EPA begins to search for the PRPs. Some of the search techniques EPA uses are reviewing site files, looking for names on drums or other materials on site, and interviewing former employees or neighbors of the site. Once PRPs are located, EPA sends them notice letters. A notice letter summarizes information EPA has used to identify the PRPs and encourages them to work with EPA to agree on cleanup responsibility for the site.

PRPs may be responsible for the entire cost of the cleanup; therefore, negotiating a fair cleanup plan with EPA early will save them time and money in the long run. If the PRPs do not cooperate, EPA can either get a court order requiring them to perform the cleanup or conduct the cleanup itself using the Trust Fund. If EPA conducts the cleanup, the Agency can then recover in court up to three times the amount of the cost of cleanup plus penalties. The Trust Fund also pays for cleanup if PRPs cannot be found or if they are unable or unwilling to pay.

Sharing in Federal cleanup costs are the states where sites are located. States must contribute at least 10% of these cleanup costs and are responsible for the operation and maintenance of the sites.

When EPA does negotiate a cleanup plan with the PRPs, site work begins under EPA supervision. This agreement with PRPs enables the parties involved to develop a fair cleanup plan and quickly and efficiently make sites safe again for people and the environment. ❑

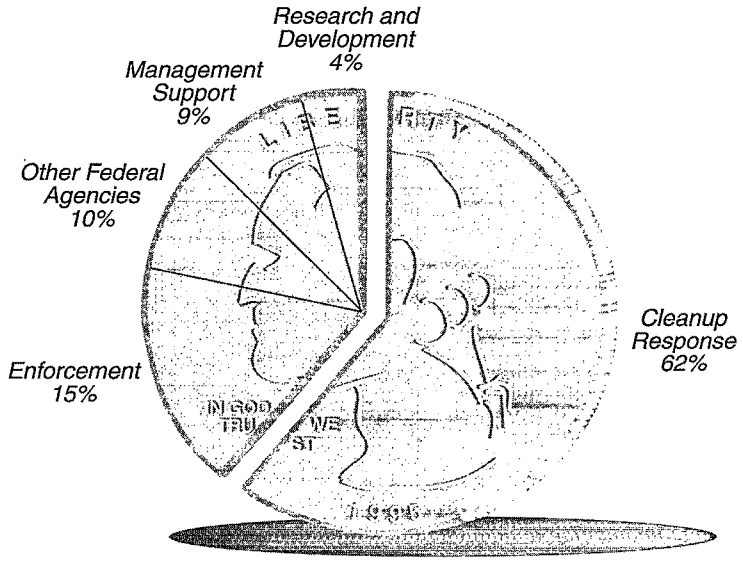
Superfund's Trust Fund

Aiming Dollars at Cleanups

People sometimes imagine expensive lawyers, endless courtroom battles, and lawsuits when Superfund is discussed. In fact, EPA spends 62% of the Trust Fund on actual site cleanup. *Enforcement activities, such as suing potentially responsible parties (PRPs) to recover cleanup costs and negotiating court orders, use only 15%.* Since 1987, Superfund has collected $1.6 billion through cost recovery efforts.

In most cases, Trust Fund money is used to clean up sites where there is very little hope of either finding those responsible, or getting them to pay for or conduct the cleanup. For example, if a site or an area of contamination is discovered but the polluting company has gone bankrupt, the Trust Fund takes over. The Trust Fund is authorized by Congress as part of the Superfund law, and the money pays for everything related to cleanup from bulldozers to file folders.

How has the Trust Fund money been spent? The illustration below shows that most of Superfund's 1995 budget was spent on site cleanup response. This includes testing and sampling, relocating affected people or providing them with alternate water supplies, running community outreach programs, as well as managing and conducting site cleanups. Some of the Trust Fund dollars also were used to research and develop new cleanup technologies, and were distributed to other EPA offices and Federal agencies. For example, every year the Agency for Toxic Substances and Disease Registry receives Trust Fund money to perform critical health studies at Superfund sites. The remaining 9% of the Trust Fund was used to manage Superfund program activities. ❑



How Superfund $$ Were Spent *(1995)*

What About the Little Guy?

EPA considers the amount and harmfulness of waste contributed or the level of involvement at a site when negotiating a cleanup plan with potentially responsible parties (PRPs). Some may have only contributed a small amount of hazardous waste. Others may have contributed a large amount, but it might not have been very harmful. *De minimis*, a Latin term meaning "at the least," describes these two types of PRPs in the Superfund program. For example, a *de minimis* party might be a neighborhood dry cleaner that sent a small amount of hazardous waste to a landfill. For parties contributing an even smaller amount of waste than *de minimis* parties, EPA uses the term *de micromis*.

EPA works closely with both *de minimis* and *de micromis* PRPs when negotiating for the cleanup of a site. This allows small hazardous waste contributors to agree to their fair share of cleanup costs and complete the negotiation process. These settlements also protect small hazardous waste contributors from future legal actions brought by EPA or by other PRPs. This is an important benefit, because parties sometimes sue each other for money in an effort to lower their cleanup costs. *De minimis* and *de micromis* settlements save time and money for all parties involved and provide settlors with a high level of confidence that they have met their responsibilities for a clean site.

❑

Working Together at Bypass 601

EPA and Polluters Launch a Successful Joint Cleanup Effort

CONCORD, NORTH CAROLINA—At first glance, the Bypass 601 Groundwater Contamination Superfund site in Concord, North Carolina seemed like a cleanup nightmare for EPA—4,000 possible polluters being investigated for serious lead contamination of the site's soil and groundwater. However, thanks to a cooperative effort between EPA and the potentially responsible parties (PRPs), a fair settlement plan emerged that will allow cleanup of the site to move forward. The plan calls for cleanup to be funded by the polluters—based on the amount of hazardous waste they contributed to the site—as well as by the Trust Fund, for the costs that cannot be covered by the polluters.

For a number of years, batteries were disposed of at the Martin Scrap Recycling (MSR) facility located on Bypass 601. Once the lead plates were removed for scrap, the leftover casings were buried in the ground at the facility, and at ten other source areas in the local area (including private residences and small businesses). Harmful contaminants such as lead and sulfuric acid leaked into the soil and groundwater. EPA studies revealed that site cleanup would require solidification and stabilization of lead-contaminated soils, and pumping and treating of the contaminated groundwater—carrying an estimated $40 million price tag.

EPA identified the main polluter at the site as the owner and operator of the MSR facility. However, the list of PRPs included many more polluters. Under Superfund law, people who had sent or transported batteries to the site were liable for cleanup. This raised the number of PRPs to more than 4,000. EPA classified 2,400 of them as *de micromis* parties (at this site, defined as those parties who had sent fewer than 10 lead batteries or less than 200 lbs) and another 115 as *de minimis* (defined as those who had sent less than a truckload of batteries or 40,000 lbs to the site). Many polluters could not be found.

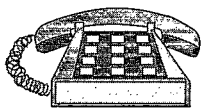
> Working together, EPA and the potentially responsible parties arrived at a cost-effective way to move cleanup forward...

Despite the variety and number of PRPs at Bypass 601, EPA's goal was to treat each one as fairly as possible. Highlights of EPA's cleanup settlement included cleanup agreements with 80 *de minimis* PRPs, protection for all *de micromis* and *de minimis* parties from being sued by other PRPs, and allocation of $10 million from the Trust Fund to cover polluters who were not found or could not pay for cleanup. EPA also encouraged other larger polluters to join a steering committee, which then negotiated a separate cleanup agreement with the Agency. EPA will supervise the cleanup activities. The settlement also means EPA will get back 100% of the money it had already spent at the site.

Working together, EPA and the PRPs arrived at a cost-effective way to move cleanup forward at the Bypass 601 Groundwater Contamination site.

For More Information on the Superfund Program...

EPA Superfund Hotline
(800) 424-9346 or TDD: (800) 553-7672
Internet: www.epa.gov/epaoswer/hotline.htm



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