

SB485 PURPOSE

- **INFORM POTENTIAL HOME BUYERS THAT a property is within .5 Mile from a Superfund NPL Site**
- **Include PROXIMITY INFORMATION in LISTING disclosures**
- **Disclosure addendum must be provided, signed and dated before or within 5 days of a ratified contract**
- **Bill guarantees a Right of Rescission to the buyer within 5 days of receipt of the addendum**
- **Bill guarantees an unconditional Right of Rescission if no disclosure was given**

CURRENT DISCLOSURE PROTOCOL

MARYLAND'S PROPERTY CONDITION DISCLOSURE LAW AKA
MARYLAND DISCLOSURE AND DISCLAIMER FORM 10-702

This disclosure is included in the contract and:

- Exempts New Builds
- Exempts Estate Sales
- Would only apply if the contamination is “on-site”

Contamination from a Superfund does not have to be on-site to pose a risk via vapor intrusion, airborne mechanisms, and other pathways

MARYLAND RESIDENTIAL PROPERTY DISCLOSURE AND DISCLAIMER STATEMENT

Property Address: _____

Legal Description: _____

NOTICE TO SELLER AND PURCHASER

Section 10-702 of the Real Property Article, *Annotated Code of Maryland*, requires the seller of certain residential real property to furnish to the purchaser either (a) a RESIDENTIAL PROPERTY DISCLAIMER STATEMENT stating that the seller is selling the property "as is" and makes no representations or warranties as to the condition of the property or any improvements on the real property, except as otherwise provided in the contract of sale, or in a listing of latent defects; or (b) a RESIDENTIAL PROPERTY DISCLOSURE STATEMENT disclosing defects or other information about the condition of the real property actually known by the seller. Certain transfers of residential property are excluded from this requirement (see the exemptions listed below).

10-702. EXEMPTIONS. The following are specifically excluded from the provisions of §10-702:

1. The initial sale of single family residential real property:
 - A. that has never been occupied; or
 - B. for which a certificate of occupancy has been issued within 1 year before the seller and buyer enter into a contract of sale;
2. A transfer that is exempt from the transfer tax under §13-207 of the Tax-Property Article, except land installment contracts of sales under §13-207(a) (11) of the Tax-Property Article and options to purchase real property under §13-207(a)(12) of the Tax-Property Article;
3. A sale by a lender or an affiliate or subsidiary of a lender that acquired the real property by foreclosure or deed in lieu of foreclosure;
4. A sheriff's sale, tax sale, or sale by foreclosure, partition, or by court appointed trustee;
5. A transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
6. A transfer of single family residential real property to be converted by the buyer into use other than residential use or to be demolished; or
7. A sale of unimproved real property.

Section 10-702 also requires the seller to disclose information about latent defects in the property that the seller has actual knowledge of. The seller must provide this information even if selling the property "as is." "Latent defects" are defined as: Material defects in real property or an improvement to real property that:

- (1) A purchaser would not reasonably be expected to ascertain or observe by a careful visual inspection of the real property; and

NOTICE TO SELLER(S): Sign this statement only if you elect to sell the property without representations and warranties as to its condition, except as otherwise provided in the contract of sale and in the listing of latent defects set forth below; otherwise, complete and sign the RESIDENTIAL PROPERTY DISCLOSURE STATEMENT.

Except for the latent defects listed below, the undersigned seller(s) of the real property make no representations or warranties as to the condition of the real property or any improvements thereon, and the purchaser will be receiving the real property "as is" with all defects, including latent defects, which may exist, except as otherwise provided in the real estate contract of sale. The seller(s) acknowledge having carefully examined this statement and further acknowledge that they have been informed of their rights and obligations under §10-702 of the Maryland Real Property Article.

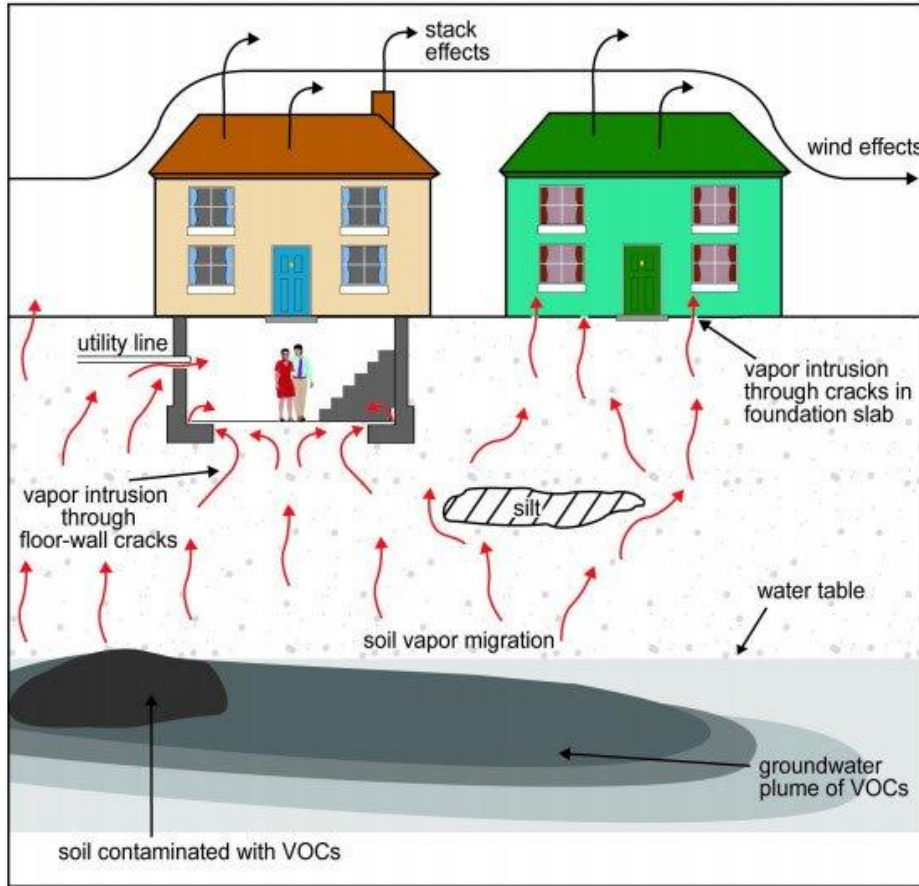
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- (1) A purchaser would not reasonably be expected to ascertain or observe by a careful visual inspection of the real property; and
- (2) Would pose a direct threat to the health or safety of:
 - (i) the purchaser; or
 - (ii) an occupant of the real property, including a tenant or invitee of the purchaser.

Does the seller(s) have actual knowledge of any latent defects? Yes No If yes, specify:

Seller _____

Date _____



Why .5 Mile Proximity is Important

- THE REMEDIAL INVESTIGATION PHASE OF CERCLA creates loops of incoming data requiring further testing, which can reveal/map more hot spots
- Hot spots can move the current known Superfund boundary closer to a property
- Until the Remedial Investigation complete, there is not a full data set
- This means it is crucial to disclose proximity within a half mile because
- The current known and documented perimeter of the Superfund NPL Site may come closer to a property as the Remedial Investigation progresses

PROXIMITY ENDS WHERE THE INFLUENCE OF CONTAMINATION ENDS



Superfund

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Search for Superfund Sites Where You Live

Search for Superfund Sites Where You Live | US EPA

On this page:

- [National Priorities List and Superfund Alternative Approach Sites](#)
- [Superfund National Priorities List \(NPL\) Where You Live Map](#)
- [Advanced Search: For National Priorities List and Non-NPL Sites](#)
- [Cleanups in My Community Mapped Search](#)

National Priorities List and Superfund Alternative Approach Sites

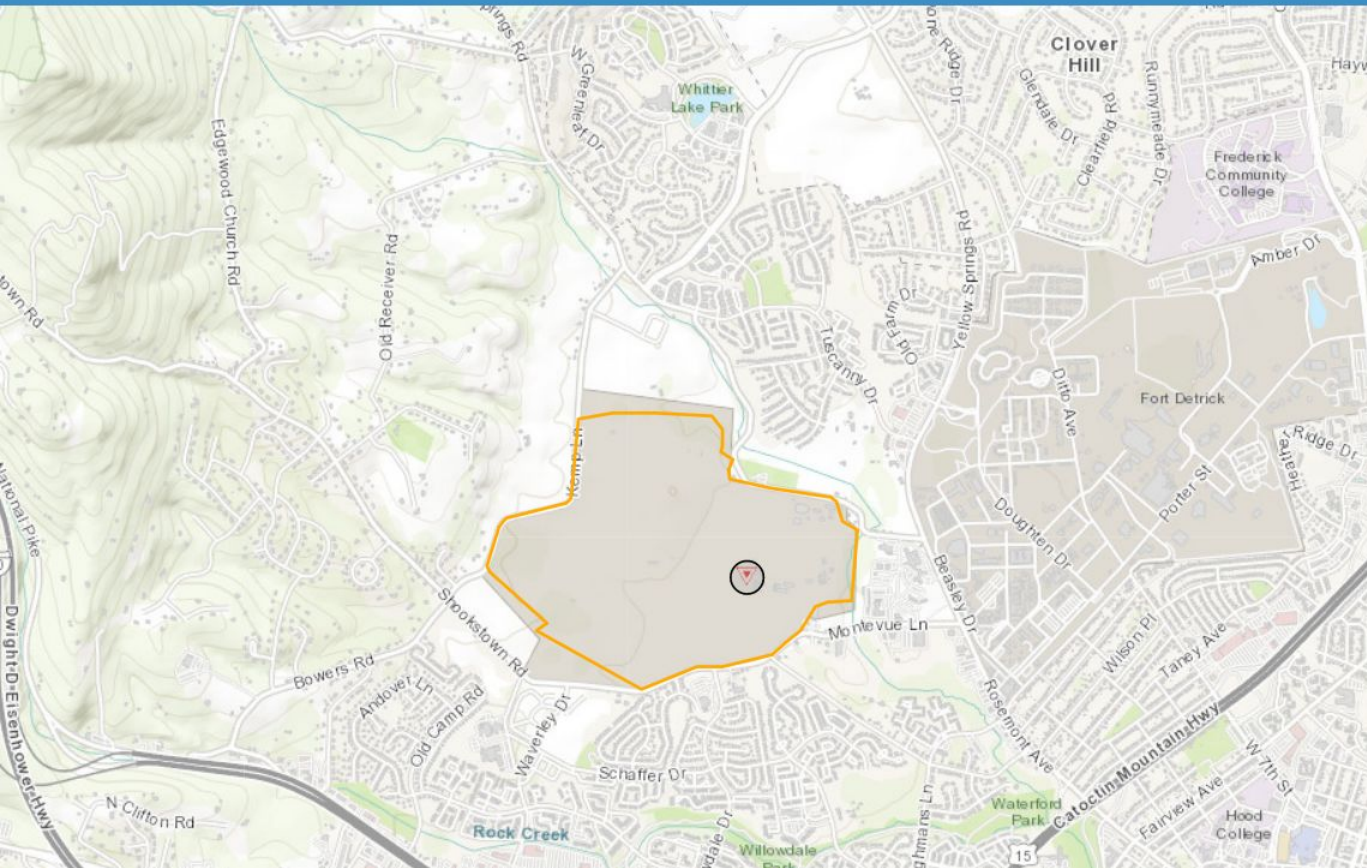
Search for sites proposed to, currently on, and deleted from Superfund's [National Priorities List \(NPL\)](#), as well as sites being addressed under the [Superfund Alternative Approach \(SAA\)](#).

Cleanups In My Community Map

Brownfields Grants

Latest Sites in CIMC

Layers, Legend, & Print



- Define your Community
- Layers
- Legend

Cleanups Sites

- Incidents of National Significance
- Federal Facility Docket/Superfund NPL/RCRA
- Federal Facility Docket/Brownfields/RCRA RCRA Corrective
- Action/Superfund NPL RCRA Corrective
- Action/Superfund Non-NPL
- Federal Facility Docket/Superfund NPL
- Federal Facility Docket/Superfund Non-NPL
- Federal Facility Docket/Superfund Non-NPL/RCRA CA
- Federal Facility Docket/RCRA CA
- Brownfields Properties/RCRA CA
- Brownfields/RCRA CA/Superfund Non-NPL
- Federal Facility Docket
- Brownfields Properties

SUMMARY

- BY LEGAL DEFINITION AND FEDERALLY MANDATED TESTING A SUPERFUND NPL SITE POSES RISK
- THE MD REALTORS CODE OF ETHICS REQUIRES DISCLOSURE OF MATERIAL FACTS
- MATERIAL FACTS INCLUDE ANYTHING THAT WOULD AFFECT THE VALUE OF THE PROPERTY OR A BUYERS DECISION TO PURCHASE THE PROPERTY
- CONTAMINATION DOES NOT HAVE TO BE ON SITE TO POSE A POTENTIAL RISK
- STUDIES CONFIRMING ADVERSE HEALTH EFFECTS ARE TYPICALLY DONE USING ≤ 1 MILE OF CONTAMINATION
- SB285
 - A) TAKES OUT THE CURRENT LOOPHOLES IN DISCLOSURE
 - B) PROTECTS ALL PARTIES