



**Testimony Supporting SB125
Senate Judicial Proceedings Committee
January 30, 2024**

Position: SUPPORT

Dear Chair Smith and Members of the Committee,

Clean Water Action strongly urges you to pass SB125, Residential Property Sales – Contract Disclosures – Superfund Sites. This legislation ensures that potential homeowners entering into contracts to buy homes within a half-mile of a Superfund site on the National Priorities List receives a disclosure of that fact, resources for researching the potential impact, and the ability to void the contract of sale within 5 days. These are common-sense measures that are a building block of communities’ right to know about pollution and potential hazards.

Sites on the Superfund National Priorities List (NPL) deserve special consideration for surrounding communities’ safety. The sites on the NPL are not a broad collection of polluted sites; they are EPA’s list of the most hazardous sites in the country identified to be “eligible for federal funding to pay for extensive, long-term cleanup actions under the Superfund remedial program.” Contaminants from these sites can travel through air, water, soil, and groundwater to nearby land, threatening neighbors’ health.

Sites are selected for the NPL based on EPA’s Hazardous Ranking System. As EPA’s [“A Community Guide to EPA’s Superfund Program”](#) outlines,

To evaluate the dangers posed by hazardous waste sites, EPA developed a scoring system called the Hazard Ranking System (HRS). EPA uses the information collected during the assessment phase of the Superfund process to score sites according to the danger they may pose to human health and the environment.

Many of the sites that are reviewed do not meet the criteria for federal Superfund cleanup action. Some sites do not require any action, while others are referred to the states, other programs, other agencies, or individuals for cleanup or other action.

If a site has a high enough score on the HRS and meets all other criteria, EPA may propose that it be put on the NPL. The proposal is published in the Federal Register, the official publication of

the U.S. government, and the public has an opportunity to comment on whether the site should be included on the NPL. EPA responds to comments and if applicable, announces the decision in the Federal Register.”

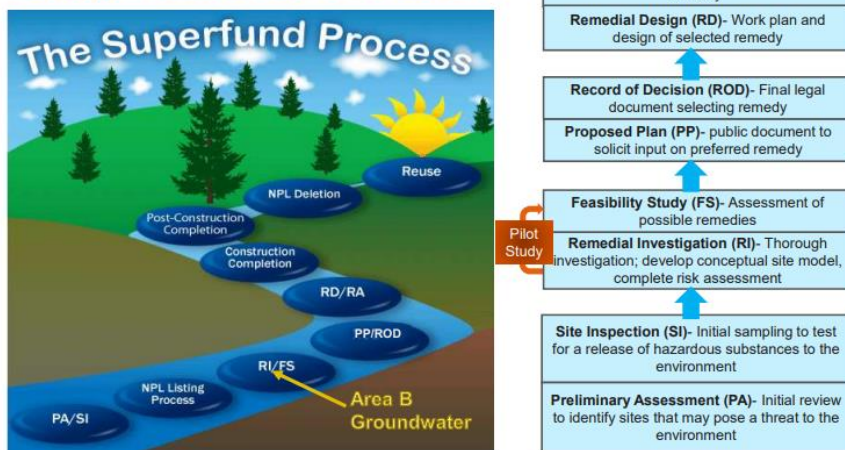
Specific criteria for identifying the most hazardous sites with the most need for long-term remediation and monitoring are used to determine whether a contaminated site is entered onto the NPL. The sites that are selected for the NPL are those that pose the greatest risk to human health and merit the highest level of caution.

Remedial investigations of NPL sites can last for a long time and can significantly expand the known geographic scope of the contamination’s impacts. Sites listed on the NPL go through lengthy procedural requirements to fully assess the scope of contamination, investigate potential remedies, implement remedies, and monitor the long-term operation of the remedy or remedies.

At the Remedial Investigation stage, the site is thoroughly investigated, a conceptual site model is developed, and a risk assessment is completed, among other elements of fully assessing the scope and type of contamination at the site. Because sites are selected for the NPL because of the heightened levels of hazards they pose, the remedial investigation stage can take a very extended amount of time, even a decade or more, and can expand the geographic scope of contamination far beyond what is known at the beginning of the process.

For example, the NPL site at Fort Detrick concerning contaminated groundwater at the Fort’s Area B is currently in the Remedial Investigation stage. At present, a pilot program is studying possible remedies, while investigations to determine the full scope of contaminated groundwater continue.

Where Does this Pilot Study fit into the Process?



Pilot Study was based on data gathered during the RI activities. Results will be used in the FS to assess potential full-scale remedial technologies.

A slide presented at the 12/4/2019 meeting of the Fort Detrick Restoration Advisory Board, showing the status of the CERCLA process for Area B Groundwater contamination.

The Remedial Investigation phase began in July 2010, and has lasted for more than 13 years. During this time, the known geographic scope of contamination has expanded in ways that concretely affect surrounding properties, and testing to determine the exact geographic extent of contaminants' movement to and impact on a nearby property, currently slated for new-build residential development, is still currently ongoing.

Existing real estate disclosures do not adequately address off-site contamination, particularly contamination that may impact newly-built homes. The standard [Maryland Disclosure and Disclaimer Statement \(10-702\)](#) does not currently contain disclosures relevant to contamination that might impact a home from a nearby NPL Superfund site, and is not a suitable vehicle for including such disclosure.

For example, the initial sale of a single family residential real property that has never been occupied is explicitly excluded from these disclosure requirements. Since offsite contamination can impact a newly-built home just the same as an old one, this fails to provide information and protection to buyers of new homes about the potential impacts of nearby Superfund site contamination. Other specific exclusions from disclosures under this form include a sheriff's sale, tax sale, or sale by foreclosure. Purchasers of such homes should receive disclosure of proximity to a Superfund site.

The disclosure form also primarily addresses sources of contamination that are located on the property itself. For example, question 14 asks "Are there any hazardous or regulated materials ... on the property?" There is no current, uniform protocol, in contrast, to disclose proximity to contamination as significant as to be included on the National Priorities List.

This legislation will ensuring that a potential buyer is directly informed of their home being in proximity to a Superfund site in a separate addendum. This is intended to stand out from the blur of paperwork and ensure that the potential homebuyer has the adequate notice and information to understand this hazard. In doing so, this will provide a valuable building block for communities' right-to-know about hazards that may impact their homes and their health.

Please pass SB125 to provide a valuable building block for communities' right-to-know about hazards that may impact their homes and their health.

Sincerely,

Jennifer Kunze
Maryland Organizing Director
Clean Water Action