

Emergency Management Program Spill Cleanup Policy

1. Under Minn. Stat 115.061, responsible parties are obligated to recover any substance or material under their control which, if not recovered, may cause pollution of waters of the state. Therefore, **full recovery of recent spills to background is the goal of the Emergency Management Unit (EMU)**. For soil, the cleanup goal is background and the absence of any staining or odors. It is also the policy of the Minnesota Pollution Control Agency (MPCA) that underground waters of the state be maintained at their natural quality. Therefore, the groundwater goal is also background (nondegradation). For surface waters, the goal is background and the absence of any sheen.
2. If full recovery of a spill is not possible because of physical impediments or limits of technology or if a newly reported historic spill has spread beyond practical limits for full recovery, risk-based cleanup decisions will be implemented based upon professional judgment of MPCA staff. The use of risk-based cleanup criteria will utilize the most applicable of the MPCA Remediation Division's risk-based tools (typically Petroleum Remediation Program guidance for most chemicals) and documented following applicable reporting requirements.

The size of the release has a direct bearing on human health and ecological risks, so the contaminant mass and type will influence cleanup decisions more than remaining contamination levels. When contaminated soils remain after recovery, the risk-based soil cleanup goal will be (a) to maintain groundwater at its natural quality, (b) to prevent exposure to people or ecological receptors (no unsafe or nuisance levels of surface contamination), and (c) to eliminate any vapor intrusion risk to buildings or utilities. When extensive excavation in sensitive ecological habitats, such as wetlands, is considered, the damage due to excavation must be weighed against the ecological harm from the release.

- The release must be quickly defined by observations and/or field sampling. Field and analytical samples should be taken at appropriate strata or lateral extent, not at standard intervals. The investigation should be completed in the first hours and days after the release. Expedited laboratory analysis is expected.
 - The excavation and any field or analytical sampling should continue to background levels and not stop at the water table.
 - Preferential migration pathways, such as underground utilities, fractured bedrock, or coarse sand/gravel lenses, must be identified immediately. Risks to drinking water supplies and vapor-intrusion risks also must be identified immediately. For sensitive habitats, surface water and ecological impacts also should be assessed.
 - Priority should be given to corrective actions, recovery and abatement, which will usually be initiated before a full risk assessment is completed.
3. **To stabilize a release after an emergency response, some incidents will be transferred to other programs.** For a release subject to the Petroleum Remediation Program or Minnesota Environmental Response and Liability Act (MERLA) programs, the EMU will act to stabilize the release site and address any impacted receptors. Often, this will include removal of highly contaminated soil and free product to the maximum practicable extent. The EMU will use established Remediation Division procedures to the extent possible during the emergency phase.

**Exhibit
3758**

State of Minnesota v. 3M Co.,
Court File No. 27-CV-10-28862

4. **If full recovery was not achieved and significant contamination remains or has moved off-site or there are significant ecological impacts, an expedited Natural Resource Damage Assessment (NRDA) may be considered.** Natural resource injury should be established if there is a measurable adverse change in the chemical or physical quality or viability of a natural resource or if there is impairment of natural resource service(s) or uses. Injuries may be quantified at contamination levels above a baseline and go beyond threats to human health and include biologic and ecologic injury and service.

The goal of a NRDA is to return the loss of natural resources or natural resource services to the public and to effectively rehabilitate or replace the injured resource or service. Resource injury, spill volume, and type and circumstance of the release will influence or determine the need for an expedited NRDA.

5. **Sites with significant residual contamination at closure will be geo-located and reported in UTM (Universal Trans Mercator North American Datum Zone 15) coordinates.** It is the policy of the EMU to leave a record that will accurately describe the location, type and amount of such contamination to the extent known.