

MnDOT Office of Environmental Stewardship
Environmental Investigation Unit

**Reducing Environmental Liability in Leasing MnDOT Property or
Permitting Work in Right of Way**

Contact Information:

Environmental Investigation Unit

[Brian Kamnikar](#) 651-366-3617

The intent of this guidance document is to provide general procedural information for MnDOT personnel or contractors performing work on MnDOT right of way, including MnDOT-owned facilities. Any optional procedures will be indicated in the document. Any deviation from procedures contained in this document must be discussed with Environmental Investigation Unit personnel prior to implementation.

This document should not be construed as a full description of all regulations pertaining to the subject matter. Contact the Environmental Investigation Unit in the MnDOT Office of Environmental Stewardship for additional information or legal requirements.

Background

MnDOT may incur liability when leasing property for private or public use or when allowing contractors to complete work within MnDOT right of way. To avoid or lessen this liability, it is important to consider the following:

- the land use at the leased property;
- implications of contractors encountering contamination during work in MnDOT right of way
- The Environmental Investigation Unit (EIU) can assist District personnel in addressing these issues and recommending the appropriate course of action. It is important that communication occur between District Land Management, Permits, and EIU to ensure that adequate review of proposed actions are conducted before permit issuance associated with leasing or subsurface work on MnDOT right of way.

Property Leasing

Leasing property to certain business operations can result in contamination of the property. In fact, some past leasing arrangements have resulted in contamination of MnDOT property. Depending on the financial resources of the lessee, MnDOT may be held responsible in part or wholly for investigating and cleaning up the contamination. Therefore, at a minimum, MnDOT should not allow the following types of businesses to operate on MnDOT-owned properties:

- Petroleum or other liquid chemical storage.

- Hazardous Waste Generators.
- Manufacturing and industrial operations.
- Wood treatment operation or treated wood storage.
- Vehicle maintenance.
- Onsite chemical use and storage (e.g., vehicle maintenance, dry cleaning, degreasing, paint spraying, wood treatment, etc.).

Any department property that is leased should be periodically inspected for signs of actual or potential site contamination. Indicators of contamination include the following:

- Fugitive dumping.
- Obvious areas of fill materials.
- Aboveground storage tanks.
- Vent pipes (may indicate presence of underground storage tanks).
- Wells (groundwater monitoring or supply wells) or cisterns.
- Onsite chemical use (e.g., vehicle maintenance, manufacturing or industrial operations, dry cleaning, degreasing, paint spraying, wood treatment, etc.).
- Chemical/waste containers, storage rooms, or sheds.
- Outdoor storage yards.
- Subgrade features with the potential to leak (e.g., hydraulic hoists, oil-water separators, vaults or vats).
- Stained soil or stained floors with large cracks.
- Dead vegetation.

MnDOT Permit Issuance for Work in Right of Way

MnDOT also incurs liability for soil and groundwater contamination mismanaged by third parties performing subsurface work on its right of way. MnDOT also may incur third party liability for workers unknowingly exposed to soil and groundwater contamination present on MnDOT right of way. As a result, MnDOT has the obligation to report the presence of soil and groundwater contamination on its right of way to those obtaining permits for subsurface work. EIU can provide the District permits coordinator information with regard to the occurrence of contamination on specific parcels and the need to have special permit conditions addressing the contamination attached to subsurface work permits issued on the parcel.

Following is standard language that should be included for permits issued to contractors cleaning up chemical spills in MnDOT right of way:

Excavation of petroleum contaminated soil must continue until there is no further evidence of contamination based on visual and olfactory observations and photoionization soil screening values do not exceed 3 parts per million.

Verification soil samples must be collected from the excavation area following removal of the contaminated soil and submitted for laboratory analysis. The number of samples collected (one sample for every 100 square feet excavated) must be in compliance with MPCA Guidance Document 3.01 (www.pca.state.mn.us/publications/c-prp3-01.pdf).

The soil samples must be analyzed for the appropriate parameters based on MPCA Guidance Document 4.04 part III B (www.pca.state.mn.us/publications/c-prp4-04.pdf).

A report documenting excavating activities and soil sample analytical results, including an electronic version, must be submitted to the MnDOT Office of Environmental Stewardship, Summer Allen, 395 John Ireland Blvd., MS 620, St. Paul, MN 55155.

Please contact the [Environmental Investigation Unit](#) for further assistance.

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