

FACT SHEET

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM (FUSRAP)

FUSRAP Program Background

The Formerly Utilized Sites Remedial Action Program (FUSRAP) was initiated in 1974 to identify, investigate and clean up sites throughout the United States that were part of the nation's early atomic weapons and energy programs. Activities at the sites were performed by the Manhattan Engineer District (MED) or under the Atomic Energy Commission (AEC). Both MED and AEC were predecessors of the Department of Energy (DOE). In October 1997, Congress transferred management of FUSRAP from DOE to the U.S. Army Corps of Engineers (USACE). USACE's FUSRAP program is funded through annual appropriations. Funding in fiscal years 2007, 2008 and 2009 was \$138,000,000, \$138,000,000 and \$130,000,000 respectively.

Every step of the FUSRAP cleanup process is regulated by a number of federal and state laws and their implementing regulations. Chief among these is the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). CERCLA provides the framework for a systematic investigation, remedial design and cleanup of contaminated sites. CERCLA requires that the public be informed and involved in the decision making process. It is typical for FUSRAP sites to be subject to multiple laws including the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Atomic Energy Act, the Uranium Mill Tailings Radiation Control Act and state and local laws.

Due to the nature of the contamination (low-level radioactive waste, mixed hazardous and radioactive waste, etc.) at most FUSRAP sites, remediation requires that large volumes of material (primarily soil) with low levels of radiation be disposed off-site. As a result, a significant portion of the total FUSRAP budget will be consumed by the cost of transportation, treatment (as necessary) and final disposition of this material at a waste disposal facility. This fact distinguishes FUSRAP sites from typical Superfund sites.



FUSRAP Settlement Policy

USACE has formulated a policy of judicially settling any DOE CERCLA liability with other potentially responsible parties (PRPs) at FUSRAP sites where private PRP liability is significant. *See, ER 200-1-4, FUSRAP Site Designation, Remediation Scope, and Recovering Costs*, 30 August 2003. A private PRP can clean up FUSRAP contamination pursuant to a settlement agreement adopted by a federal district court in the form of a consent decree. If private PRP liability is not significant, it is USACE policy to clean up the site and then recover costs from the PRP for their share of liability.

The Session Law Firm

From the unique waste management issues presented by FUSRAP sites to cost recovery defense and prosecution, The Session Law Firm has the expertise to assist you with these unique sites, including a former USACE attorney who served as the lead attorney at USACE's largest FUSRAP site.