

Principal Laws and Regulations Affecting the FUSRAP Cleanup Program



U.S. DEPARTMENT OF ENERGY
Formerly Utilized Sites Remedial Action Program

This fact sheet has been prepared to address community outreach requirements set by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the National Environmental Policy Act (NEPA). Fact sheets are one part of an effort to provide public information on environmental restoration and waste management on the FUSRAP project.

Several federal laws guide environmental restoration in the United States. Each has a different emphasis, but together, they target the most pressing hazardous waste sites in the nation. The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980—also known as Superfund—provides for the funding, study, and implementation of cleanup efforts. Another applicable law is the National Environmental Policy Act (NEPA) of 1969, which requires federal agencies to consider possible environmental effects when making decisions. Both laws require public involvement under a well-defined set of activities and schedules. It is the policy of the Department of Energy (DOE) that community relations requirements be combined under the more comprehensive CERCLA umbrella. Investigations, analyses, and documentation for these two laws will also be combined and integrated to streamline regulatory review and reduce paperwork.

The Environmental Protection Agency (EPA) emphasizes that the cleanup process is dynamic and flexible, and is tailored to the specific circumstances of each site. A phased approach of study is used to help maximize efforts. Researchers first collect available data to learn about the general conditions at a site. As a basic understanding is reached, they begin to identify possible cleanup alternatives. To fill in gaps of information and to test potential cleanup methods, they collect additional data, which is used to focus researchers' understanding and to refine alternatives. This interactive progression of study goes back and forth between data collection and testing, and the development and refinement of alternatives, until enough information has been collected to identify sound alternatives. The goal of gathering this information is not to remove all uncertainty (an impossible task), but to gather enough information to make and support an informed decision on which remedy appears to be the most appropriate for a given site.

Descriptions of the principal federal laws under which FUSRAP operates are provided in this fact sheet. While provisions vary in detail, the end goal remains constant—to protect the safety of human health and the environment.

CERCLA: Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986

CERCLA is a 1980 federal law that was extensively amended in 1986. The act created a special tax that goes into a trust

fund, commonly known as Superfund, to investigate and to perform remediation of abandoned or uncontrolled hazardous waste sites. CERCLA consists of three phases: (1) a preliminary assessment, (2) a thorough study of the site, exploration of alternatives, and selection of a remedial action plan, and (3) design and implementation of the chosen plan.

- 1) The CERCLA preliminary assessment/site inspection (PA/SI) is used to determine which sites should be placed on the National Priorities List (NPL). The NPL identifies the most serious uncontrolled or abandoned hazardous waste sites. The assessment focuses on the potential for contamination. If the assessment determines that further action is needed, a site inspection is performed to assess the threat to the public and the environment. The site is scored using a brief, on-site investigation. Sites that exceed a certain score are added to the NPL.

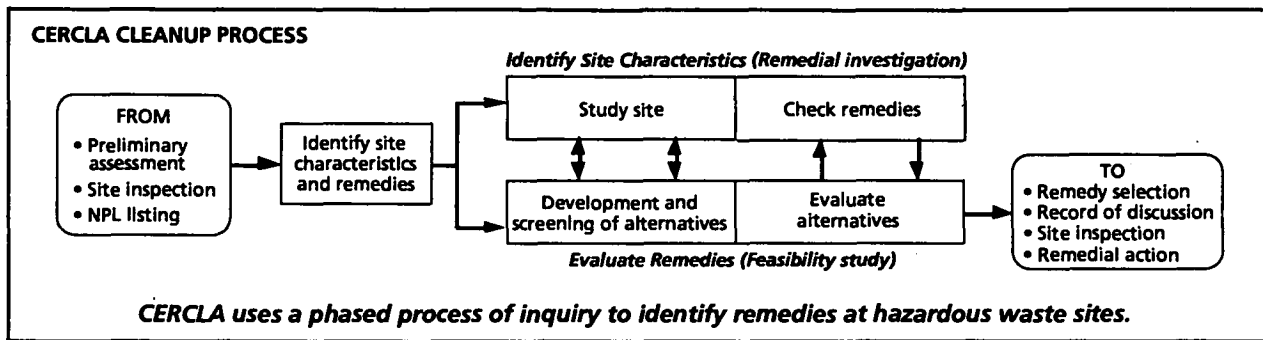
The NPL may also list hazardous sites named by states as their top priority sites and sites determined to pose a significant threat to public health, welfare, or the environment.

- 2) A remedial investigation/feasibility study (RI/FS) is conducted for sites placed on the NPL. The RI/FS has several components.

The first stage involves planning. All work performed during the RI/FS follows general principles developed during a scoping, or planning, phase. Existing data on a hazardous waste site is evaluated to develop a cleanup strategy, identify likely objectives, and prepare a work plan. A sampling analysis plan is developed so that any decisions made are developed using the most accurate and best documented data possible.

The next step is the remedial investigation portion of the cleanup, during which extensive sampling and analysis activities are performed. The feasibility study, which is performed simultaneously, uses the data to develop a range of alternatives for remediation. One alternative is selected, and entered into the record of decision (ROD), which records the preferred method and manner of remediation. The record also considers public comments and community concerns.

- 3) A remedial design/remedial action (RD/RA) is conducted to implement the decision, and to monitor the performance of the environmental restoration.



NEPA: National Environmental Policy Act (NEPA) of 1969

NEPA is the federal law that sets basic policy on protection of the environment. The principal purpose of NEPA is to determine if a major federal action has significant environmental effects. NEPA requires federal agencies to evaluate all environmental impacts before implementing actions.

If an action clearly has no significant impact, a categorical exclusion fulfills the obligation. If an action may have environmental consequences, an environmental assessment (EA) or an environmental impact statement (EIS) may be necessary. In preparing an EA, data are collected and analyzed to determine whether impacts are sufficient to justify the preparation of the more complete EIS study, or whether a "finding of no significant impact" is found.

If an EIS is required, NEPA requires public participation early in the process of identifying conditions at the site and in the assessment of alternatives. Public involvement, or "scoping," ensures that real problems are identified early, concentrates energies and effort on those areas requiring resolution, and provides for a balanced and thorough EIS. The NEPA scoping process is different from that of CERCLA. NEPA scoping focuses on public participation, while CERCLA scoping concentrates on planning.

As part of the CERCLA/NEPA process, DOE establishes an administrative record containing all documents that form the basis for the selection of a response action. A copy of the administrative record is made available to the public at a location near the site, usually a library. Availability and location of the administrative record are announced in newspaper advertisements and fact sheets.

Other Laws and Standards

A variety of other laws or standards may also apply to specific sites. Brief summaries follow:

- The Toxic Substances Control Act regulates certain classes of chemicals, including polychlorinated biphenyls (PCBs).
- The Resource Conservation and Recovery Act created a management system for hazardous wastes, requiring that safe and secure procedures be used in treating, transporting, storing, and disposing of hazardous wastes. Facilities must hold permits to handle these wastes and are required to operate within specific guidelines.
- The Clean Air Act is a federal law that controls emissions of waste into the air. Special protective equipment and permits are required.
- The Clean Water Act is a similar federal law that controls the amount of waste that can be released into surface water bodies or publicly owned treatment systems.

- The Safe Drinking Water Act is designed to protect drinking water resources. This law is incorporated into CERCLA provisions dealing with groundwater protection.
- National Emission Standards for Hazardous Air Pollutants limit air emissions of pollutants.

Cleanup activities are regulated by a federal facilities agreement (FFA) between DOE, EPA, and the state. The agreement prioritizes cleanup activities, assigns agency roles and responsibilities, and establishes procedures for document review and interaction among the agency officials.

Combined Investigations

Many laws and regulations have been enacted to ensure the protection of human health and the environment. Often, they are written to regulate particular discharges under particular circumstances, such as chemical releases into groundwater. At any one waste site, one or more laws may apply, or none, depending on the extent of contamination and the types of contaminants. The regulations and standards that pertain to a particular site are determined early to ensure that all applicable and/or appropriate requirements are met.

On FUSRAP, it is not unusual for a site to require environmental restoration under multiple regulations. DOE plans to integrate technical and community relations activities under provisions of CERCLA, making adjustments to incorporate special requirements of NEPA where necessary.

Acronyms Used

CERCLA	Comprehensive Environmental Response, Compensation, and Liabilities Act
DOE	Department of Energy
EA	environmental assessment
EIS	environmental impact statement
EPA	Environmental Protection Agency
FFA	federal facilities agreement
NEPA	National Environmental Policy Act
NPL	National Priorities List
PA/SI	preliminary assessment/site investigation
PCBs	polychlorinated biphenyls
RD/RA	remedial design/remedial action
RI/FS	remedial investigation/feasibility study
ROD	record of decision