

FUSRAP Data Management and Information Transitions - 19459

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ABSTRACT

The Formerly Utilized Sites Remedial Action Program (FUSRAP) was created in the mid-1970s to clean up radiological contamination resulting from early development of nuclear weapons. The US Department of Energy (US DOE) was responsible for FUSRAP until October 1997, when Congress transferred administration and execution of FUSRAP site cleanup to the US Army Corps of Engineers (USACE). Currently, the US DOE Office of Legacy Management (LM) determines the eligibility of a site for referral to USACE. USACE determines whether the site is included in FUSRAP for cleanup, conducts remedial actions, and transfers sites back to LM for long-term surveillance and maintenance (LTS&M).

LM and USACE established the Data Management Working Group (DMWG) to (1) establish a common understanding of US DOE and USACE district-specific data, records practices, and requirements as they apply to FUSRAP programmatic documents for site transition and transfer; (2) establish methods to ensure accurate data transfer; and (3) develop a timeline for data and records transfer. These methods will ensure continuity of stewardship while transitioning from cleanup to LTS&M and beyond as more FUSRAP sites transfer from USACE to LM.

The DMWG has met monthly and the meetings are attended by a wide range of LM and USACE project managers and subject matter experts. Discussion topics have addressed site records management, including data needs and uses; transfer and posting of Administrative Record and Permanent Record files for public accessibility; and management of legal and classified files.

There have been a number of group successes, including the following:

- Establishment of a common understanding of data and records practices and requirements as the sites transition and transfer from USACE to LM
- Development of effective lines of communication between USACE and LM concerning data management for transition
- Establishment of a cohesive approach to data management between the two agencies

INTRODUCTION

The US Army Corps of Engineers (USACE) and the US Department of Energy (US DOE) roles and responsibilities in the execution and administration of Formerly Utilized Sites Remedial Action Program (FUSRAP) sites were defined in a March 1999 Memorandum of Understanding (MOU) between US DOE and USACE [1]. In accordance with the March 1999 MOU, USACE is responsible for the following: “Upon completion of FUSRAP activities, shall provide a copy of surveys, findings, decision documents, and access agreements for property not owned by the government, as well as close out documents, to US DOE for the historical record. This includes all sites determined eligible, whether or not any response action was taken.” The March 1999 MOU states that US DOE “shall maintain records of determination of eligibility and other files, documents and records associated with the site.”

Following the signing of the March 1999 MOU, USACE and US DOE provided further clarification on specific processes that were outlined in the March 1999 MOU regarding the schedule and types of

documents being transferred. These processes are captured in letters of agreement between USACE and US DOE issued in December 2001 and April 2002.

The decision to form interagency working groups was first discussed at the 2015 Joint Program Meeting between USACE and the US DOE Office of Legacy Management (LM), but it was not until 2017 that the two agencies established the Data Management Working Group (DMWG). The primary goals of the DMWG were to:

- Develop a common understanding of LM and USACE district-specific data, records practices, and requirements as they can be consistently applied to FUSRAP programmatic documents for site transition and transfer.
- Establish methods to ensure accurate data transfer.
- Develop a timeline for data and records transfer.

The DMWG held regular meetings from March 2017 through June 2018 to discuss various topics related to the transition and transfer of data and information related to FUSRAP sites. A need for a centralized guidance document was identified at the Joint Program Meeting in 2017, to ensure that the expectations for every site transfer are consistent.

DMWG TOPICS

This section of the paper provides summarizes the background information for each DMWG discussion topic and presents the group consensus/path forward resulting from the discussions.

Administrative and Permanent Records

USACE maintains both an Administrative Record (AR) and a Permanent Record (PR) for each FUSRAP site. The AR documents the response actions conducted under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The PR includes records that span the project from initiation through site closure. The consensus definition of each record category is as follows:

- **AR:** A collection of documents that establish the basis for the selection of environmental response and removal actions at a site governed by CERCLA. The AR acts as a vehicle for public participation in selecting the response action. The AR contains correspondence, the remedial investigation/feasibility study, the proposed plan, the decision document or the Record of Decision, public comments, and other related documents considered or relied upon during the selection of the remedy. The AR follows the requirements of CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan. The AR is a subset of the permanent record.
- **PR:** The term for the site project file that contains all records that must be permanently retained. This includes the AR as a subset of documents, as well as postdecision documents including those that document the remediation performed, the site closure, and the as-left condition of the site. PR documents may include remediation data, final status survey reports, and waste disposal information.

The March 1999 MOU [1] establishes that the AR is transferred from USACE to LM 90 days prior to a FUSRAP site transferring from USACE to LM. Although it is not identified in the March 1999 MOU, the PR contents are also critical for LM's effective long-term surveillance and maintenance (LTS&M) of a site.

Figure 1 shows the range of project documents captured by the AR and PR. After transfer from USACE, the LM records for a FUSRAP site consist of the PR plus records related to the eligibility determination and site referral, and any future LTS&M-related records that may be generated. The LM records collection preserves all records created for a FUSRAP site from their creation through final disposition in accordance with the National Archives and Records Administration (NARA).

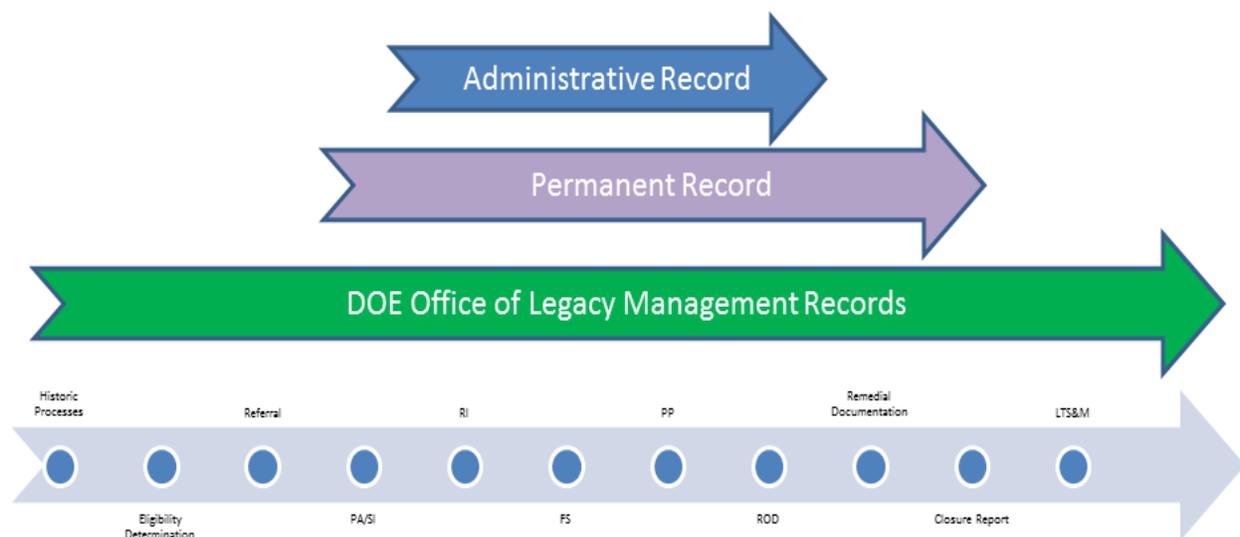


Figure 1. LM Record Collection compared to the AR and the PR

USACE management of the FUSRAP AR and PR files regarding personally identifiable information (PII) follows the guidelines of the Privacy Act of 1974 as amended; the US Department of Defense (US DOD) *Department of Defense Privacy Program* [2]; and Army Regulation 25-22, *The Army Privacy Program* [3]. All PII is redacted from electronic AR records; library hard copies of AR are unredacted. PR records are also unredacted.

The DMWG’s final decision regarding transfer of AR and PR files was that USACE will provide an electronic redacted copy of the AR (if it existed prior to site transfer) to LM. Any redactions to the FUSRAP site ARs prior to site transfer will be performed by USACE.

USACE will also provide the unredacted PR, which includes all AR documents. The unredacted AR files will be used to support LM responses to stakeholder inquiries and Freedom of Information Act (FOIA) requests.

Listed below are key documents from the PR that will be redacted (and that can be posted by LM), including documents that have been previously released to the public or posted on USACE public websites:

- Site closeout report and declaration of site completion
- Final status survey (FSS)
- National Priorities List deletion letters
- License termination letters
- Remedial Action final report
- Operation and maintenance plans
- Long-term monitoring reports
- Annual inspection reports

- Regulator concurrence letters
- Site management plans
- Five-Year Reviews
- Land use control plans
- Institutional control plans

Upon site transfer, the USACE FUSRAP ARs will be posted on the LM AR webpage and on the site webpages. At that time USACE will be able to remove all project documents from the USACE website and provide a link to the LM website.

Handling of Classified Documents

There is currently one FUSRAP site identified as containing classified documents. It is unknown whether these documents would be necessary for LTS&M of the site. The classified documents are more likely to be in the PR than the AR.

LM is not authorized to accept classified records at its records facilities. The *LM Records and Information Management Transition Guidance* states that “Classified material and information systems are not accepted by LM, so transition plans must include the transfer of classified material to an appropriate custodian” [4]. LM may seek a custodian within US DOE to hold classified records of sites within its LTS&M program.

The DMWG determined that if a transfer of classified material is performed by USACE, information as to the location of these classified records should be provided to LM. If there is a need for LM to have the information that is included in a classified record in order to perform LTS&M at the site, USACE will notify LM so that appropriate accommodations can be made.

Handling of Email Records

According to USACE Engineering Regulation (ER) 25-60-1, *Records Management Program*, “E-mail messages are official records when they are created or received in the transaction of public business and retained or appropriate for retention as evidence of policies, actions, decisions, or transactions” [5].

The DMWG consensus was that if an email is determined to be a record, it will be included in the AR and PR files in accordance with ER-25-60-1 [5]. Discussions are continuing on this topic, as each USACE district handles email records differently.

Legal Records

The U.S. Environmental Protection Agency’s *Revised Guidance on Compiling Administrative Records for CERCLA Response Actions* [6] provides guidance for managing legal records, potentially responsible party evaluations, and other legal agreements. According to the guidance, legal records (e.g., potentially responsible party evaluations, settlement agreements, orders of consent and other legal agreements) should be included in the AR if they were relied on to select the response action or to demonstrate public participation. Only final documents should be included. Documents that should not be included are administrative orders or consent decrees issued after the signing of the Record of Decision and legal documents related solely to liability issues.

The DMWG consensus was that documents properly marked as confidential, draft, or attorney/client privilege should be included in the PR if they are relevant to the LTS&M of the site. These documents should be labeled by USACE accordingly. The directions for how these types of documents should be

managed are provided in USACE ER 25-60-1 [5]. USACE will inform LM if USACE will be retaining any records at transfer for litigation purposes and will identify such records.

Discussions are continuing on this topic, as legal records are generally not identified for transfer to LM. A determination should be made regarding any USACE position or policy on the inclusion of legal records as part of the PR.

Construction/Engineering/As-Built Files

Records such as construction figures, as-built drawings, waste manifests, and waste disposal certificates are needed by LM, preferably in native file formats, to perform site LTS&M and to respond to stakeholder inquiries.

Electronic copies of construction records held that are relevant to LTS&M will be included in PR. Construction records will be transferred in computer-aided design or geospatial formats along with Federal Geographic Data Committee–compliant metadata where possible.

The USACE Construction Branch is responsible for records related to remedial actions, and there are ongoing discussions regarding this topic about ensuring that construction records in native formats and PDFs can be included into the PR. The USACE Engineering Regulation ER 200-1-4, *Formerly Utilized Sites Remedial Action Program*, Appendix D-1, will be evaluated. As ER 200-1-4 states: “In order to ensure that any remedial action completed is performed to comply with and meet appropriate standards and guidelines, the last phase, Certification Phase includes a verification activity. The goal of this phase is also to ensure through proper documentation that each remedial action is adequately documented and archived so that a permanent record of its final radiological condition will always be available” [7].

Social Media

The following is stated in NARA Bulletin 2014-02, *Guidance on Managing Social Media Records*, which is addressed to the heads of all federal agencies: “Social media allows individuals to collaborate, create, organize, edit, comment on, combine, and share content, likely resulting in the creation of Federal records. The Federal Records Act (44 U.S.C. 3301) defines Federal records as any material that is recorded, made or received in the course of Federal business, regardless of its form or characteristics, and is worthy of preservation. Social media content that meets this definition must be managed according to the applicable laws and regulations” [8].

The consensus of the DMWG was that records that are posted to social media by USACE should be (1) placed in the AR, in compliance with ER 25-60-1 [5], if they were used to select the response action, and (2) included in the PR if they are important to LTS&M of the site. In 2013, NARA issued a white paper on the best practices for the capture of social media records [9].

Freedom of Information Act

LM must produce all relevant documents when presented with a FOIA request. However, Congress established nine exemptions from disclosure categories for certain types of information to protect against certain harms, such as an invasion of personal privacy, or harm to law enforcement investigations. The FOIA authorizes agencies to withhold information when they reasonably foresee that the disclosure would harm an interest protected by these exemptions.

The applicability of these exemptions will be at the discretion of the US DOE Headquarters FOIA office. Documents labeled by USACE as having sensitive content will be considered for protection during that

determination.

Section 508 of the Rehabilitation Act As Amended in 1998

Under Section 508 of the Rehabilitation Act as amended in 1998 (Title 29 *United States Code* Section 794d [29 USC 794d]), agencies must give disabled employees and members of the public access to electronic and information technology that is comparable to the access available to others.

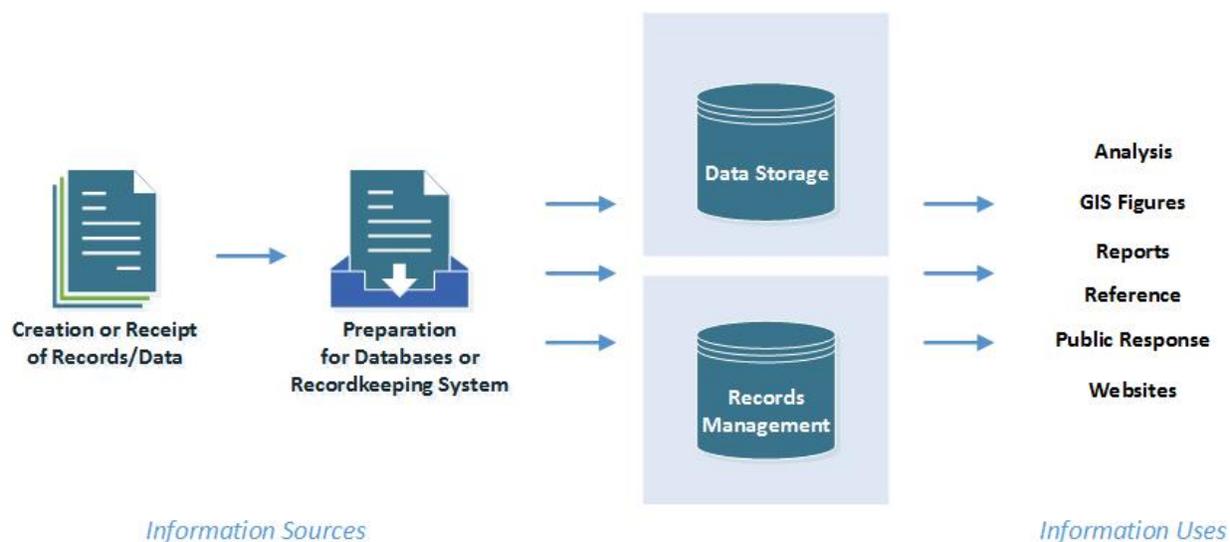
An overview for the coverage of electronic content in Section 508 of the Rehabilitation Act says “the updated 508 Standards apply to a federal agency’s full range of public-facing content, including websites, documents and media, blog posts, and social media sites. The final rule also specifically lists the types of non-public-facing content that must comply. This includes electronic content used by a federal agency for official business to communicate: emergency notifications, initial or final decisions adjudicating administrative claims or proceedings, internal or external program or policy announcements, notices of benefits, program eligibility, employment opportunities or personnel actions, formal acknowledgements or receipts, questionnaires or surveys, templates or forms, educational or training materials, and web-based intranets.”

The DMWG consensus was that USACE will make an effort to ensure that the electronic files that are transferred to LM are in compliance with the requirements of Section 508.

Data Management

As shown in Figure 2, environmental data created or inherited by LM for FUSRAP are stored in a geodatabase or loaded into LM’s Environmental Quality Information System (EQuIS) as well as other information technology systems and databases. FUSRAP data and records are used long-term for problem analysis, geospatial environmental mapping, status reporting, and responding to inquiries from the public.

All electronic records are captured, retrieved, and preserved in LM’s electronic recordkeeping system, a Documentum software platform. Hard copies of records are maintained in LM’s records storage facility. The AR, closure documents, and LTS&M records are made available to the public on the LM website.



Abbreviation: GIS = geographic information system

Figure 2. LM's Data and Records Management General Process.

LM has requested that USACE provide all environmental data for each FUSRAP site being transferred, including preremediation, remediation, and final status survey data. USACE districts have differing environmental database programs, ranging from the Environmental Resource Program Information Management System (ERPIMS) to Geotech's Enviro Data software to custom databases. Each database might hold different types of data (analytical, monitoring well, lithology, and so on). It is also possible that in one district, data such as monitoring well information is stored outside the database, while groundwater analytical data is included in the database. In addition, USACE data are saved indefinitely in a database rather than as a record. USACE does not include live environmental data in records systems for transfer to LM.

The consensus of the DMWG was that, if available, USACE will provide to LM geospatial data including FSS data, coordinates, shapefiles, and boundary files for the FUSRAP sites. LM's FUSRAP-specific data needs are documented in the *LM Records and Information Management Transition Guidance*. USACE will design the site environmental databases to differentiate between US DOE historical preremediation (characterization) data, remediation data, and FSS data prior to transfer.

To assist in data transfer, LM EQuIS mapping documents are available to aid in the transition of environmental data. These documents, along with the ERPIMS Description file, provide information necessary to correctly populate an electronic data deliverable so data can be migrated to the EQuIS database format. Environmental data should be transferred with Federal Geographic Data Committee-compliant metadata as described by the US Geologic Survey.

Information Transfer

The letters of agreement to the March 1999 MOU [1] state that USACE will provide LM with a copy of the AR at least 90 days prior to site transfer. The PR (including data files) should also be provided to LM upon site transfer. If the AR or the PR is available early, LM will accept early transfer of the data and records.

The electronic copies of the AR and the PR should be in searchable PDF/A format or in native formats of data files with an index linking the PDF image to a line entry in a Microsoft Excel spreadsheet. The file index should be transmitted to LM on the same media as the AR and PR files. The index will be based off of Appendix I of the *FUSRAP Records Management Protocol* [10]. The preferable method for transferring electronic copies of the AR and PR documents is on external hard drive, CD, or DVD in conjunction with the hard copy records.

The DMWG developed a draft template for a transfer letter to be used by USACE for all FUSRAP information transfers. The template provides language regarding the status of the following:

- Instances (if any) of document redaction
- Statement regarding the completion of review of privilege, Privacy Act, or PII
- Statement verifying there is no classified material being transferred
- Inclusion of metadata
- Statement describing any prior public release

DMWG OUTCOMES

The primary outcome of the DMWG meetings, discussions, and consensus was the creation of the *Draft Joint U.S. Army Corps of Engineers and U.S. Department of Energy Office of Legacy Management Information Transition Guidance for the Formerly Utilized Sites Remedial Action Program* [11]. This singular guidance document addresses the federal regulations, common guidelines, and technology needs required to ensure information is efficiently transferred between the two organizations. The guidance document will ensure that (1) the expectations for every site transfer are consistent and (2) there is continuity of responsibility and transfer of project knowledge. Site transitions will be governed by the same guidance, thus potentially saving time and costs.

The DMWG will conduct follow-up meetings annually or every 6 months to keep the group informed of any progress made and of any changes to the processes. In addition, site-specific meetings for the transition of data and records will be conducted as a site gets closer to transition. These site-specific meetings will allow for the development of more specific timelines for the data and records transfer to occur.

CONCLUSIONS

This collaboration between USACE and LM, especially through the DMWG, has provided a clearer understanding of how LM and USACE view records and use the data, better defined expectations with regard to the data and records transition process, enhanced the understanding of how LM and the various USACE districts handle records and data, and established a more cohesive approach to data management between the two agencies. Upcoming records transfers will be more streamlined, cost-effective, and efficient for both organizations.

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