

FREQUENTLY ASKED QUESTIONS ABOUT NATURAL RESOURCE DAMAGE ASSESSMENT

Cleanup

1. How does natural resource damage assessment (NRDA) differ from the remedial process?

Restoration and remediation represent two related, but distinct processes under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Restoration, the focus of natural resource damage assessment, is designed to restore injured natural resources to the condition that would have existed in the assessment area absent the release of hazardous substances, referred to as “baseline conditions”.

Remediation or cleanup activities are risk-based and are designed to reduce current and future risks to public health and the environment. The end result of remediation or cleanup activities may not be restoration to baseline conditions, but some cleanup level that is less than that.

2. Does NRDA take into account cleanup?

NRDA Trustees consider the expected effectiveness of remedial activities when calculating the long-term effect of the release of hazardous substances on resources.

3. Does natural resource damage assessment slow down the cleanup process or reduce jobs associated with clean-up?

The Department of the Interior’s natural resource damage assessment regulations, that Trustees use as guidance, recommend that damage assessments and restoration actions be conducted in coordination with cleanup activities. This is implemented to the extent practicable.

Restoration projects frequently create additional work activities in the area of the affected communities.

Trustee Responsibilities

4. What is a Preassessment Screen?

The Preassessment Screen report provides a summary of the existing information regarding hazardous substance releases and potential injuries to natural resources in the area of a release, and justifies the Trustees’ decision to move forward with a damage assessment.

5. Who are NRDA Trustees?

Federal, State and Tribal entities are authorized to act as Trustees pursuant to Section 307(f) of CERCLA: Executive Order 12580, 52 Fed. Reg. 2923 (January 29, 1987); subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”), 40 CFR 300.600 ff (as amended, 55 Fed. Reg. 8666, 8857-58 (March 8, 1990)).

The five Federal agencies that act on behalf of the public as Trustees for natural resources include the U.S. Departments of Agriculture, Defense, Energy, and Interior, and the National Oceanic and Atmospheric Administration.

6. Does NRDA recognize Tribal and Pueblo cultural uses of the environment?

NRDA addresses Tribal and Pueblo cultural uses of natural resources by evaluating potential impacts to Tribal and Pueblo services provided by natural resources.

Natural Resources/Injury Methodology

7. What does baseline mean? Does it include conditions that existed prior to Responsible Party operations?

Baseline means the condition or conditions that would have existed at the assessment area had the release of hazardous substances not occurred. This condition includes all of the activities that have occurred over the years, including the construction of buildings and other such similar development. Baseline condition assumes that Responsible Party operations, absent unpermitted release of hazardous substances, would have occurred at the site.

8. Are injuries as a result of permitted releases at the time they occurred still compensable under NRDA?

To the extent that operations have resulted in releases of hazardous substances in violation of applicable permits, and contribute to natural resource injury, such injuries are compensable under the NRDA process.

Natural Resource Damage Assessment

9. Can you begin early restoration before completing the assessment?

Yes, early restoration activities can begin prior to the completion of the natural resource damage assessment if the Trustees find a good opportunity that is consistent with restoration goals and has a nexus to the injured resources. Early restoration includes any restoration actions that are implemented prior to the completion of the damage assessment phase. Damage assessments can be prolonged and complex, and early restoration provides an opportunity to begin restoring natural resources and their services. Early restoration projects would have to receive prior Trustee approval to offset natural resource injury.

10. What kind of restoration projects can be done?

CERCLA requires that all acquired restoration monies be used for the restoration, rehabilitation, replacement, or acquisition of the equivalent of resources injured due to the release of hazardous substances. General public works type projects, unrelated to the restoration of injured natural resources, cannot be undertaken with recovered monies or as part of a settlement agreement.

11. How is the amount of a damage settlement determined?

Settlement damages are estimated as the cost of replacing, rehabilitating, restoring, or acquiring the equivalent of injured natural resources plus the reasonable costs for conducting the damage assessment.