

U.S. Fish & Wildlife Service

Beyond Cleanup: Restoring America's Natural Heritage

*Facts About Superfund's Natural
Resource Damage Assessment and
Restoration Program*



The Benefits of Superfund's Natural Resource Damage Assessment and Restoration Program

- NRDAR benefits every American taxpayer through its “polluter pays” principle, which requires the responsible party to pay for restoring injured natural resources, rather than the tax payers.
- NRDAR benefits property owners and other real estate interests adjacent to restored areas.



- NRDAR ensures healthy fish and wildlife populations, as well as healthy lands and waters on which they depend.
- NRDAR ensures healthy wetlands, which support more species of wildlife than any other habitat type. Wetlands are especially important to commercial saltwater fish and shellfish. Wetlands benefit people by providing recreational opportunities, recharging groundwater supplies, reducing flood damage, and controlling erosion. The economic benefits of wetland resources are estimated at more than \$1 trillion annually.

- NRDAR benefits the nation's 35 million anglers, 14 million hunters, and 63 million wildlife viewers who rely on healthy fish and wildlife populations for their outdoor pursuits.
- NRDAR helps maintain a thriving economy by ensuring healthy resources that provide recreational opportunities. Fishing annually brings in \$38 billion; hunting, \$21 billion; and wildlife viewing, \$27 billion. These expenses represent about 1.4% of the Gross Domestic Product.
- NRDAR helps safeguard more than 2 million full- and part-time jobs related to fishing, hunting, and wildlife viewing.
- NRDAR benefits a nearly \$4 billion dollar per year commercial fishing industry.
- NRDAR benefits Native American Tribes and their sovereign rights to land, water, fishing, hunting, and gathering, as well as cultural, spiritual, and traditional activities, that depend on healthy resources.

The Comprehensive Environmental Response, Compensation, and Liability Act

The hazardous waste issue was brought to national attention two decades ago by a situation that arose in the Love Canal community in New York, where chemical leaks from a landfill posed such danger that residents had to be evacuated from their home.

This incident, and others like it, led to the public realization that unsafe hazardous waste disposal sites existed nationally, and that new federal laws were needed to address the problem.

CERCLA, commonly known as Superfund, was passed in 1980 with bipartisan support, establishing a “polluter pays” hazardous waste cleanup program. CERCLA’s trust fund — made

up of an environmental income tax, and petroleum and chemical feedstock excise taxes — is used by the Environmental Protection Agency to implement the cleanup program and pay for cleanup activities at waste sites. There is more to CERCLA, however. The law also includes a mechanism for trustees to receive compensation from the polluter to cover the costs of restoring lost or degraded natural resources. These are two complementary but distinct programs.

The purpose of the cleanup program, primarily carried out by the EPA and the States, is to address environmental concerns that affect human health.

The mission of the U.S. Fish & Wildlife Service is to conserve, protect, and enhance fish and wildlife and their habitats for the continuing benefit of the American people.

Injury: A measurable adverse change, either short- or long-term, in the chemical or physical quality or the viability of a natural resource, or impairment of a service provided by a resource, relative to a baseline or control resulting from exposure to a release of a hazardous waste or discharge of oil. Injury includes destruction, loss, and loss of use.

Damage: Compensation for injury to natural resources, either in dollars or in-kind services, from the responsible party, including reasonable costs of assessing and determining such injury and the restoration of the injured resources.

Trustees: Federal and State governments, Native American Tribes, and foreign governments with designated authority over natural resources.

CERCLA section 101(16): ... “natural resources” means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States..., any state or local government, any foreign government, [or] any Indian tribe.

CERCLA section 107(f)(2): ... act on behalf of the public [to] assess damages for injury to, destruction of, or loss of natural resources...

The EPA identifies the most serious hazardous waste sites and places them on a list prioritizing their cleanup. Out of the 41,182 potential hazardous waste sites that have been screened for inclusion in this country, there are currently 1,256 sites proposed for inclusion or included on this National Priorities List (NPL).

The cleanup program emphasizes source control, not natural resources outside NPL site boundaries but still affected by a hazardous release. For example, pollutants in waterways are often deposited in sediments downstream. These contaminants can have profound long-term effects on natural resources and on people using those resources.

The provision of CERCLA that provides for restoring natural resources is known as Natural Resource Damage Assessment and Restoration. It involves receiving compensation from the polluter to be used to restore or replace natural resources to the conditions existing before the hazardous release.

Since restoration activities are not funded through the trust fund, Natural Resource Damage Assessment and Restoration is the only mechanism to restore natural resources injured by hazardous substance releases. Because of it, the U.S. Fish & Wildlife Service and many other agencies are better able to safeguard this nation's rich natural heritage for future generations of Americans.

Montrose/Los Angeles Bight, California

- Cleanup of the Montrose Superfund site deals with controlling the source of DDT from a factory in the Los Angeles area.
- NRDAR deals with fish and wildlife exposure to tons of DDT discharged from the factory via the sewer system or ocean dumping. Such exposure nearly decimated the area's bald eagles, peregrine falcons, brown pelicans, and other birds, and caused many species of fish to become unfit for human and wildlife consumption. NRDAR will provide for the restoration of these lost or degraded resources.

Coeur d'Alene, Idaho

- Cleanup of the Bunker Hill Superfund site provides for the removal of lead, zinc, cadmium, and other toxic metals within a 21-square-mile area around a smelter.
- NRDAR deals with a 1,500-square-mile area — most of the Coeur d'Alene Basin — which has been contaminated by tons of the same contaminants deposited throughout the watershed but not included in the planned cleanup. Injuries to natural resources in the larger area include annual losses of swans and other birds, extensively contaminated habitats and plants traditionally used by Coeur d'Alene Tribe, and lost fisheries.

The U.S. Fish & Wildlife Service's Role in Superfund's Natural Resource Damage Assessment and Restoration Program

NRDAR is carried out by Federal, State, and Tribal trustees for fish, wildlife, other living resources, water, lands, and protected areas. Trusteeship is derived from Federal and Tribal treaties, Federal and State statutes, and other laws.

Agencies within the Department of the Interior are trustees for lands under their management, such as national wildlife refuges, national parks, public rangelands, reservoirs, and Native American Reservations. In addition, land management agencies are trustees for the natural resources on those lands.

The U.S. Fish & Wildlife Service's responsibilities go beyond this land base and include jurisdiction over migratory birds, endangered and threatened species, anadromous and inland fisheries, and certain marine mammals.

Because of these additional responsibilities, the Fish & Wildlife Service has more than 50 years of expertise in pesticide and other contaminant research. The Service includes the only Federal program specifically dedicated to identifying and preventing harmful contaminant effects on fish and wildlife.

Statutes under which the U.S. Fish & Wildlife Service manages trust resources of the Department of the Interior include:

- Migratory Bird Treaty Act
- Anadromous Fish Conservation Act
- Endangered Species Act
- Bald Eagle Protection Act
- Marine Mammal Protection Act
- National Wildlife Refuge Administrative Act
- Fish and Wildlife Act of 1956
- Fish and Wildlife Coordination Act

Interior Department land management agencies:

- U.S. Fish & Wildlife Service
- National Park Service
- Bureau of Land Management
- Bureau of Reclamation
- Bureau of Indian Affairs

Mission

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Top 10 Most Frequently Asked Questions About Superfund's Natural Resource Damage Assessment and Restoration

1. Why is the U.S. Fish & Wildlife Service involved with NRDAR?

Service contaminant specialists have more than 50 years of hands-on experience in dealing with hazardous substances' impacts on fish and wildlife and their habitats. It was a former Service employee, Rachel Carson, who spurred the modern environmental movement with her 1962 book *Silent Spring*, which pointed out the widespread harmful effects of pesticides on the environment. In addition to responsibilities for more than 92 million acres of natural wildlife refuge lands, the Service is the trustee for many other resources affected by hazardous substances, including migratory birds, endangered species, fisheries, and certain marine mammals.

2. Is NRDAR a "sleeping giant," likely to bankrupt industry?

NRDAR is not a drain on the national economy. In fact, NRDAR protects American industries that depend on healthy natural resources, from multimillion-dollar corporations to small business owners. These include travel and tourism, outdoor equipment manufacturers, and commercial fishing and related industries.

According to the General Accounting Office in July 1995, about half of all NRDAR cases are settled with no cash payment (compensation is received in the form of in-kind services), and more than 35 percent are settled for less than \$5 million. Only about 20 sites have been identified as potentially exceeding \$50 million.

3. How many NRDAR cases have Federal agencies settled?

As of April 1995, Federal agencies have settled 98 NRDAR cases for an estimated total of \$106 million. Forty-eight were settled with no payments, 36 were settled for less than \$500,000, 9 were settled for between \$500,000 and \$5 million, and 5 were settled for \$12 million or more.

4. Is NRDAR a punitive system?

NRDAR liability is strictly compensatory, and compensation often is comprised of in-kind services.

5. Is NRDAR a litigative burden?

Virtually all NRDAR cases to date have been settled through negotiation.

6. Does NRDAR address issues of human health?

NRDAR does not focus on human health concerns; however, restoration has many benefits to people. Because fish and wildlife are sensitive to contaminant exposure, they often serve as indicators of what may ultimately jeopardize our own health, much like the proverbial "canary in the coal mine."

7. Is restoration coordinated with cleanup?

Cleanup plans focus primarily on source control and not necessarily on restoring natural resources. Heavily contaminated sediments downstream or outside NPL site boundaries are frequently not covered by cleanup efforts. And, since selection criteria for National Priority List sites focuses most heavily on human health — not on natural resources — areas with large natural resource losses are often not included on the NPL.

In addition, Superfund monies only cover the cleanup and are not available for restoration. Since natural resource trustees do not have access to the trust fund, the only way to finance restoration is through the NRDAR process.



8. Why can't restoration be quick and easy?

Chemical contamination of our natural resources has created a perplexing problem that challenges this country's technological ability. Restoration of injured natural resources is a complex process that requires a great deal of planning and time. First the assessment of injury is completed, recommendations for restoration are made, and public participation in planning and carrying out the restoration is sought.

Recommendations for restoration methods must be decided upon after the cleanup actions are determined. Finally, in many cases it simply takes time for resources to rebound from severe degradation.

9. Are compensation monies used to enhance agency budgets?

All funds collected from the responsible party through NRDAR must by law be used for natural resource restoration, and these costs are strictly accounted for. In addition, many responsible parties have provided compensation in the form of in-kind services.

10. Why can't we simply rely on natural recovery of resources?

To date, every major NRDAR case is focused on contamination from persistent chemicals that will not readily degrade through natural processes for centuries, especially heavy metals (lead, zinc, cadmium) and chlorinated hydrocarbons (DDT, DDE, PCB's). Many of these substances concentrate at higher levels in food chains and are, therefore, toxic to people as well as wildlife. In addition, natural recovery, even with degrading contaminants, often takes many years during which the public forgoes some, if not all, uses of the injured natural resources.

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