

NOAA DEVELOPS MODEL FOR COOPERATIVELY RESOLVING NRD CLAIMS

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A coalition of federal agencies led by the National Oceanic & Atmospheric Administration (NOAA) has developed a framework to ensure greater cooperation between government and industry in handling natural resource damage (NRD) claims at Superfund sites.

On Jan. 13, NOAA released its Cooperative Assessment Project (CAP) framework, which will help to promote collaborative efforts to address the thorny problem of settling NRD claims by establishing principles for how potentially responsible parties (PRPs), trustees and non-government organizations, including community representatives and environmentalists can participate in the process. NOAA developed the framework with input by other agencies, including EPA, the Department of Interior and the Justice Department, along with state, industry and environmental members. The document is available on InsideEPA.com.

CAP is meant to involve PRPs in the planning and implementation of damage assessment and restoration at contaminated sites, as a means to reduce conflicts and litigation at either National Priorities List (NPL) or non-NPL sites.

Such an approach will be used to get “out of the mindset of 'we're going to get you,'” which has led to more conflict and a slower approach to cleaning up these sites, a NOAA source says. This new approach “moves restoration that much further, that much faster,” the source adds.

Under the plan trustees will determine whether they have jurisdictional authority to implement CAP, whether trustees and PRPs are willing and capable to commit to the project, and whether injuries to natural resources are sufficient for the affected parties to engage in the project.

While the framework does not require that all trustees agree to a CAP approach, it does require that these parties be kept informed about the approach and given the opportunity to become involved at a later date. And at the outset of a CAP, trustees are expected to discuss the costs that PRPs will be responsible for in conducting an NRD assessment, including scientific studies and expert consultant fees.

The framework also requires that the parties document the information they use in making decisions for the project. “Trustees are responsible for establishing and maintaining this public record . . . parties will provide the restoration plan for public review, which will be the basis for resolving the project.”

Meanwhile, the work group is looking for sites to pilot the CAP framework. “Hopefully, people will step up to the plate and start offering sites for implementation,” according to a NOAA source.

In the next month, the CAP work group will also release a supplementary document, “Cooperative Assessment Project (CAP) Options, Guidance on Potential Approaches and Tools.”

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