



NRI/NRD

NATURAL RESOURCE INJURIES AND DAMAGES



The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Oil Pollution Act, and the Clean Water Act (CWA) all contain provisions on natural resource injuries and damages (NRI/NRD). These laws allow natural resource trustees to assess damages to natural resources resulting from a discharge of oil or a release of a hazardous substance covered under CERCLA or the CWA.

Natural Resources are broadly defined to include “land, fish, wildlife, biota, air, water, groundwater, drinking water supplies and other such resources.”

When oil or hazardous substances (but not pollutants or other contaminants) enter the environment, they may harm natural resources, reduce the public’s use or enjoyment of them and/or degrade an ecological function that they provide. When the changes to the resource are adverse and measurable, the affected resource is said to be injured. Injury to natural resources serves as the basis for a damage claim. The Department of Interior (DOI) has published injury definitions in 43CFR Part 11.

By Executive Order 12580 and in the National Oil and Hazardous Substances Contingency Plan (NCP) the President has designated certain executive officers as Federal trustees for natural resources. These Federal trustees include the Secretaries of Defense, Interior, Commerce, Agriculture and Energy. The Secretary of Defense has delegated trusteeship of Army property to Mr. Addison D. Davis, IV, the Deputy Assistant Secretary of the Army for Environment, Safety and Occupational Health [DASA(ESOH)]. Each State Governor has designated one or more State agencies to serve as Trustees for resources under State management or control. Tribal

For more information

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Contact the USAEC Help Desk for
technical assistance, 410-436-1244

Chairmen, or their designees, serve as Trustees for tribal interests. The U.S. Environmental Protection Agency is not a natural resource trustee; however, they often work in close cooperation with Trustees.

The Secretary of Defense has trusteeship over all lands owned or managed by the DoD, including facilities operated by the Navy, Army, Air Force and Defense Logistics Agency. Where DoD facilities contain hazardous waste disposal sites, the agency managing the property may have responsibilities as a natural resource trustee or lead response agent and be held accountable as a responsible party. The latter two roles may often conflict with the natural resource trustee role.

When an injury occurs, the trustees seek to restore the injured resources to a baseline condition. The baseline condition is defined as the condition that would exist except for the hazardous substance or oil release. Replacement or acquisition of equivalent resources may be substituted in appropriate circumstances. Responsible parties may either restore the injured resources and address the loss of services, or they may simply make a payment (i.e., pay damages) to the natural resource trustee(s) equal to the sum of the baseline restoration program cost and the value of lost services.

