

Department of the Interior Departmental Manual

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Series: Environmental Quality Programs

Part 521: Natural Resource Damage Assessment and Restoration

Chapter 1: Authorities and Policy

Originating Office: Office of the Assistant Secretary - Policy, Management and Budget

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1.1 Purpose. This Chapter identifies authorities and prescribes Departmental policy for Natural Resource Damage Assessment and Restoration (NRDAR) activities pursuant to the Secretary's responsibilities as trustee for natural resources under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), the Federal Water Pollution Control Act or "Clean Water Act" (CWA), and the Oil Pollution Act of 1990 (OPA).

1.2 Authorities.

- A. CWA, as amended (33 U.S.C. 1251 to 1387), including but not limited to Section 311(f).
- B. OPA (33 U.S.C. 2701 to 2761), including but not limited to Sections 1006 and 1012.
- C. CERCLA, as amended (42 U.S.C. 9601 to 9675), including but not limited to Sections 104, 107, 111(i), and 122.
- D. Executive Order 12580, Superfund (CERCLA) Implementation, as amended.
- E. Executive Order 12777, Implementation of Section 311 of the Clean Water Act, as amended, and the Oil Pollution Act of 1990 (OPA).
- F. National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR Part 300).
- G. The CERCLA Natural Resource Damage Assessment (NRDA) regulations (43 CFR Part 11).
- H. The OPA NRDA regulations (15 CFR Part 990).

- I. Interior and Related Agencies Appropriation Act, 1992 (P.L. 102-154), as amended.
- J. Other appropriate statutes and regulations as promulgated.

1.3 **Policy.** It is the policy of the Department to take appropriate actions necessary to protect and restore the natural resources under its trusteeship, and services provided by those resources, injured by a release of hazardous substances or discharge or substantial threat of discharge of oil. To implement this policy, the Department will:

A. Fully coordinate the Department's NRDAR activities internally and fully develop and use expertise from all Departmental programs;

B. Seek to recover damages for those natural resource injuries and losses that are not fully addressed by actions responding to hazardous substance releases and oil discharges or threats of discharge. Use all sums recovered in compensation for natural resource injuries to restore the injured natural resources and their services. Seek to recover the reasonable costs of assessing natural resource damages, including both direct and indirect costs of assessment and restoration activities, and prejudgment interest;

C. Coordinate with response agencies in accordance with the provisions of the NCP throughout the response planning and implementation process. Work closely with response agencies, and as appropriate with responsible parties or potentially responsible parties (RPs/PRPs), to promote incorporation of actions to protect and restore natural resources;

D. Seek cooperation with RPs/PRPs in the natural resource damage assessment process and implementation of restoration actions. In addition, promote appropriate and timely RP/PRP involvement in and funding of planning, implementation, and restoration actions, with oversight by and approval of the involved Trustee agencies;

E. Seek restoration and compensation for natural resource injuries through settlements or litigation, in support of and consistent with the Department's overall resource management authorities and responsibilities;

F. Recommend and approve issuance of covenants not to sue to RPs/PRPs, where appropriate and consistent with the Department's overall resource management authorities and responsibilities;

G. Conduct NRDAR activities in accordance with the regulations under CERCLA (43 CFR Part 11) or OPA (15 CFR Part 990) to the greatest extent practical, and develop and maintain an administrative record of actions taken during the assessment, restoration planning, and restoration process;

H. Consult, coordinate, and cooperate with other Federal and State agencies, Tribal governments, and foreign governments having natural resource trustee responsibilities, in

identifying sites and incidents with potential natural resource injuries, conducting NRDAR activities, and providing technical assistance; and

I. Provide opportunities for appropriate public and RP/PRP review of and participation in damage assessment and restoration activities in accordance with standing Departmental and bureau policies and regulations.