

## Department of the Interior Departmental Manual

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**Effective Date:** 04/21/20

**Series:** Environmental Quality Programs

**Part 521:** Natural Resource Damage Assessment and Restoration

**Chapter 1:** Authorities and Policy

**Originating Office:** Office of Restoration and Damage Assessment

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### 521 DM 1

1.1 **Purpose.** This Chapter identifies authorities and prescribes Department of the Interior (Department) policy for Natural Resource Damage Assessment and Restoration (NRDAR) activities pursuant to the Secretary's responsibilities as trustee for natural resources under Federal law.

1.2 **Scope.** The policy in this chapter applies to all Bureaus/Offices with delegated authority to carry out responsibilities related to NRDAR activities pursuant to 207 DM 6.

1.3 **Authorities.**

A. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended (42 U.S.C. 9601 to 9675), including but not limited to Sections 104, 107, 111(i), and 122.

B. CERCLA Natural Resource Damage Assessment (NRDA) regulations (43 CFR Part 11).

C. Federal Water Pollution Control Act or Clean Water Act (CWA), as amended (33 U.S.C. 1251 to 1387), including but not limited to Section 311(f).

D. Oil Pollution Act (OPA) (33 U.S.C. 2701 to 2761), including but not limited to Sections 1006 and 1012.

E. OPA NRDA regulations (15 CFR Part 990).

F. Executive Order 12580, Superfund (CERCLA) Implementation, as amended.

G. Executive Order 12777, Implementation of Section 311 of the Clean Water Act, as amended, and the Oil Pollution Act of 1990 (OPA).

H. National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR Part 300).

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 (1) the natural resources it manages or controls on behalf of the public, and (2) the services provided by those resources, when injured by a release of hazardous substances or discharge or substantial threat of discharge of oil whenever feasible. To implement this policy, the Department will:

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

B. 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.

C. Coordinate with response agencies in accordance with the provisions of the NCP throughout the response planning and implementation process, working 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 to recover damages (including recovery of reasonable costs of assessing damages, direct and indirect costs of assessment and restoration activities, and prejudgment interest) 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, and use all sums recovered in compensation for natural resource injuries to restore the injured natural resources and their services.

E. Consistent with the existing NRDAR statutory and regulatory authorities, the Department prioritizes restoration of natural resources of the type injured at or in proximity to the area where the injury occurred. As provided by the CERCLA NRDAR regulations at 43 CFR 11.82(e), the Department should not select an alternative that requires acquisition of a permanent Federal property interest unless there is a determination that restoration, rehabilitation, or replacement at or in proximity to the site is not possible.

F. Conduct NRDAR activities in accordance with the regulations under CERCLA (43 CFR Part 11) or OPA (15 CFR Part 990).

G. Develop and maintain a case file documenting the assessment, restoration planning, and restoration processes in accordance with Department policy and in support of the development of an administrative record.

H. Seek cooperation with RPs/PRPs in the natural resource damage assessment process and implementation of restoration actions and 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.

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

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