

CERCLA/OPA Notification and Coordination for Natural Resource Damages

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See: <http://www.epa.gov/superfund/programs/nrd/>

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Who are the Trustees?

- Federal (Secretaries of the following Federal agencies: Agriculture; Commerce; Defense; Energy; Interior; and other agencies) authorized to manage or protect natural resources.
- State—designated by the Governor
- Tribal –designated by Tribal Chairmen or the Secretary of the Interior may serve as trustee at request of the tribe.





EPA Responsibilities

- EPA encourages participation by all affected Trustees
- Participation encouraged at every stage of the process
- EPA cannot assess whether any impact has or has not taken place so notification needs to be provided to Trustees





EPA Responsibilities

Sharing of Responsibilities with Coast Guard

- EPA responsible for contamination on land and inland waters
- Coast Guard primarily responsible for contamination involving the coastal zone, the Great Lakes, and deepwater ports



Timing for NRD Claims

- CERCLA - NRD claims must be filed within 3 years of:
 - Date of discovery of loss and its connection to the release; or
 - At NPL sites, completion of remedial action
- For Tribes: the deadline for filing NRD claims is the later of:
 - Expiration of the otherwise applicable period of limitations; or
 - Two years after the United States, acting in its capacity as Trustee for the Tribe, gives written notice to the Tribe that it will not present a claim on behalf of the Tribe or fails to present a claim within the time limitations specified elsewhere in the statute.





When Natural Resources are injured Trustees are responsible for

- Assessing the extent of injury
- Restoring the resources by:
 - Returning them to their baseline condition
 - Compensating the public for interim loss of resources





CERCLA Notification and Coordination

- Promptly notify Trustees of potential injuries to natural resources from releases
- Coordinate assessments, investigations, and planning with Trustees
- Notify and encourage Trustee participation in settlement negotiations with PRPs



EPA is Responsible for

- Notifying Trustees of potential natural resource injuries
- Coordinating assessments, investigations, and planning with the Trustees





Coordination

- EPA encourages participation by all affected Trustees
- Notification and coordination occurs throughout:
 - Superfund removals and remedial actions
 - OPA removals





Goals of EPA Notification and Coordination

- Provide Trustees with the information needed to meet their legal obligations
- Share information to better protect human health and the environment
- Reduce the time for settlement of liabilities

