

Natural Resource Damage Assessment

Process and U.S Federal Perspective

*Land Based Spill Preparedness and Response in
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Outline



- NRDA overview
- NRDA funding
- Cooperative Assessment
- Federal Concerns / Challenges

What is NRDA?

- Legal Process
 - OPA 90, CERCLA
 - Specific steps to follow and things to prove
- Based in Science
- Goal: Public Compensation
 - Determine public loss
 - Recover loss through restoration



What's a natural resource?

Anything that occurs naturally that has value to people
or other resources



Natural Resource “Services”

Wetland



Ecological

Foraging
Protection

Recreational

Birding
Hiking

Commercial

Fish Production
Tourism

Passive Use

Viewing

Subsistence

Fishing
Hunting

Cultural

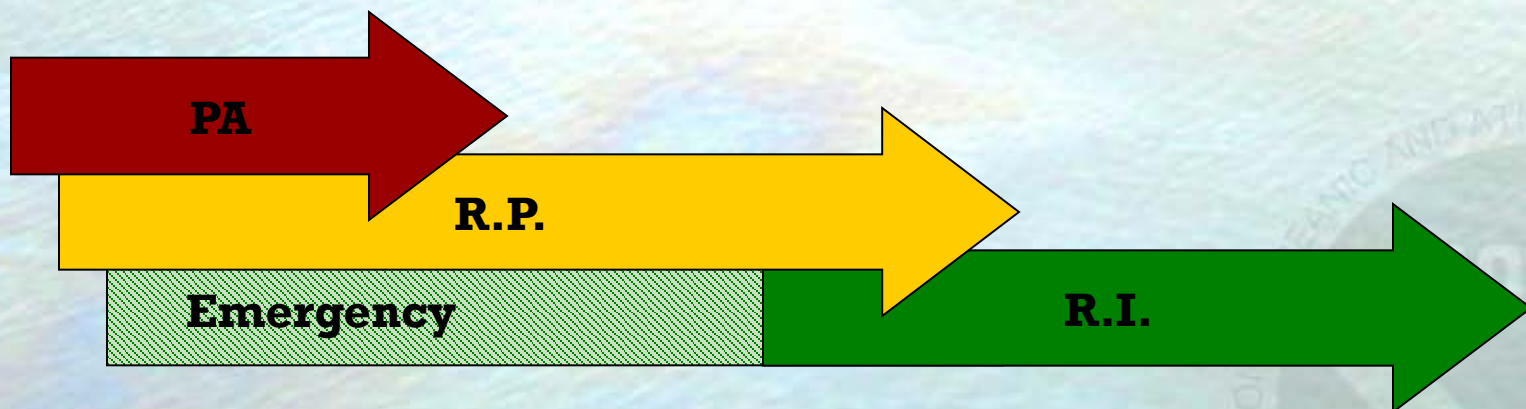
Historical
Spiritual

Balance Injury with Restoration

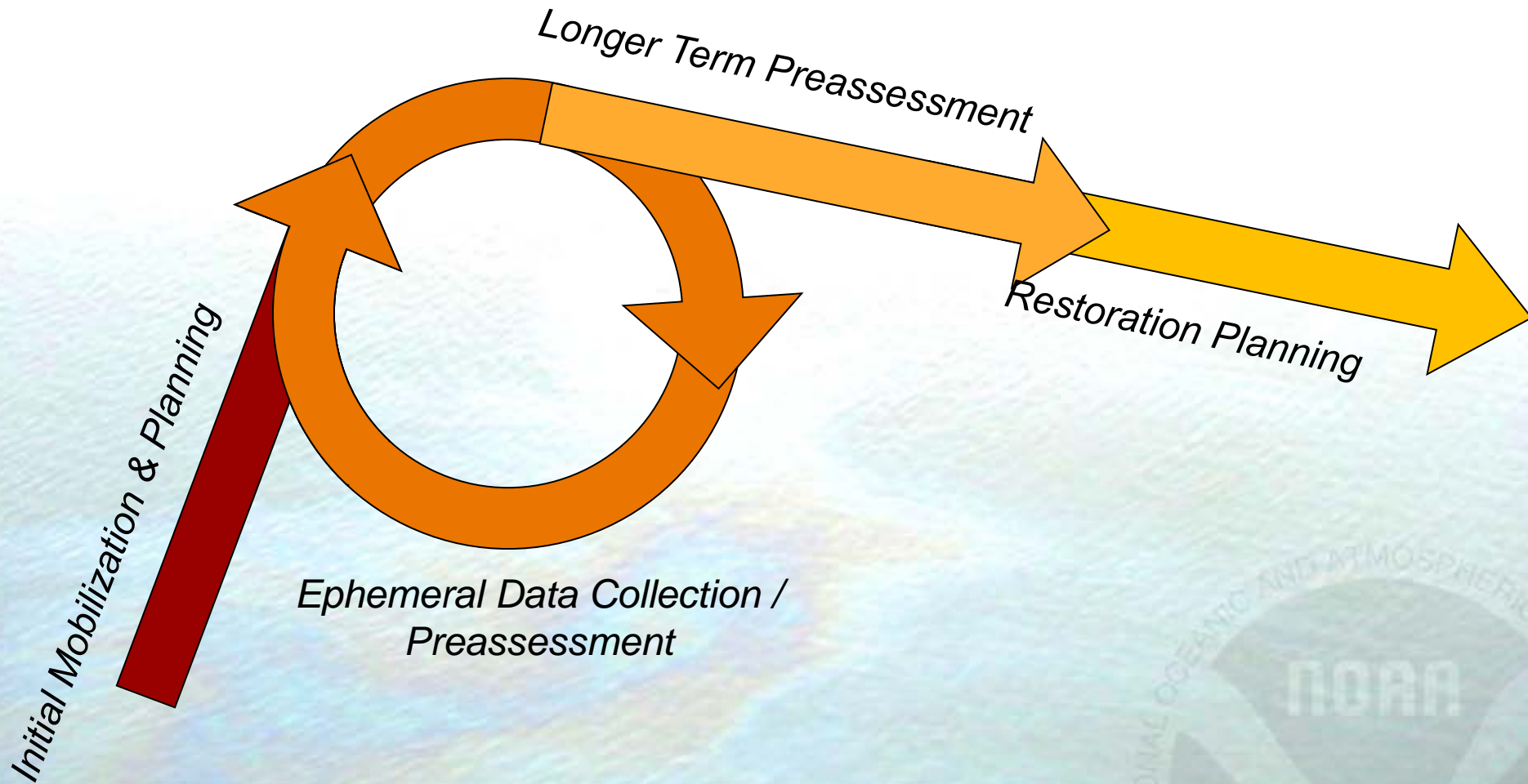


NRDA Process

- Preassessment Phase
- Restoration Planning phase
 - Injury Assessment
 - Restoration Selection
- Restoration Implementation Phase

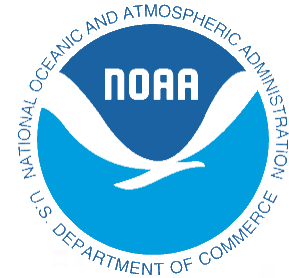


NRDA Planning Cycle



Who conducts NRDA?

- Multiple trustee agencies share responsibility
- Multiple statutes provide mandates
- Natural resource trustee agencies
 - NOAA
 - US Department of Interior (USFWS, BLM)
 - State agencies
 - Tribal governments



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Responsible Party

Who Is in Charge?

- Consensus decision-making process
- Federal lead
 - More of an administrative role



NRDA Funding

Source:

- The Responsible Party and/or the OSLTF

Mechanism

- Funding and participation agreement
- Settlement
- NRDA claim to the USCG National Pollution Fund Center




NRDA Funding - Interim

Upfront money to get working immediately

- Agency Sources
 - NOAA's Damage Assessment Revolving Fund
- USCG Initiate Funding
 - Line of credit from the Trust Fund to get the assessment started

Cooperative Assessment Overview

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- Oil spill occurs.
 - Trustees invite RP participation. RP agrees.
 - Parties conduct cooperative injury assessment.
 - Parties conduct cooperative restoration planning.
 - Parties agree to settlement in a consent decree.

Why a Cooperative Assessment?

The OPA NRDA regulations encourage it:
15 CFR 990.14(c)



HOWEVER, degree of RP participation is purely at the discretion of the trustees.

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Why a Cooperative Assessment?

- The alternative to cooperative assessment is usually litigation:
 - Extremely high transaction costs.
 - The process is slow and adversarial.
 - The Trustees must fund the injury assessment.
 - Long time before restoration occurs.



Why a Cooperative Assessment?

Everyone benefits from cooperative assessment:

- Reduced transaction costs (more agreement up front, reduced negotiation later, no costly litigation)
- Faster process (gets parties to restoration quicker)
- Builds trust for current and future incidents (reduces adversarial positions and behavior)
- Trustees benefit from RPs' ability to fund activities quickly
- RPs benefit by having input into the decision-making process

Federal Concerns, Challenges

- Federally listed endangered species
- Liaison to the USCG Fund
- Trustee coordination
- International coordination
- Working effectively with regional partners
- Understanding regional / local issues

Federal Process

Advantages / Disadvantages

- Pros
 - Bring national experience
 - Bring resources
 - RP interactions
- Cons
 - Cost
 - Inertia – complex process

Contact

An aerial photograph of a vast ocean area, likely a marine protected area. The water is a deep blue, and a complex network of white and light blue lines crisscrosses the surface, indicating various boundaries and zones. A large, irregularly shaped exclusion zone is visible in the center-right of the frame. The horizon is visible in the distance under a clear sky.

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