

Summary of Written Comments/Questions Received as Part of the Formal Scoping for the Louisiana Proposed Statewide Regional Restoration Planning (RRP) Program for Oil Spills

Comments:

1. Support for RRP Program

Several commenters said that they supported the development of Louisiana's Proposed RRP Program. One commenter stated that the proposed RRP Program has potential to provide cost-effective and expeditious restoration alternatives for damages under the Natural Resources Damage Assessment (NRDA) regulations (15 C.F.R. Part 11) under the Oil Pollution Act of 1990 (OPA) (33 U.S.C. § 2701, et seq.). This commenter further stated that the RRP Program has potential to decrease the time needed to move from assessment to restoration in a cost-effective manner. Another strongly supported the efforts of the natural resource trustees in their efforts to develop and implement mechanisms for restoration of baseline conditions in Louisiana's ecosystems. Another found the proposed RRP Program comprehensive and well done as presented in the Public Review Document (PRD). Another felt that the trustees did a good job of describing the NRDA process and proposed RRP Program.

Response: No response necessary.

Comments 2 through 10 will be taken into consideration during the development of the Draft Programmatic Environmental Impact Statement (Draft PEIS).

2. Scale and Types of Restoration Projects

A number of commenters made comments on scale and types of projects that could be included in the Regional Restoration Plans (RRPs): Their comments included:

- ♦ Encouraging the trustees to include various projects of both scale and type to provide good opportunities for responsible parties to match their need for restoration projects that fit the liability defined in a damage assessment;
- ♦ To the extent possible, combining NRDA restoration projects with bigger projects [e.g., CWPPRA (Coastal Wetlands Planning, Protection and Restoration Act), Coast 2050, etc.] to take advantages of economies of scale and to improve project sustainability;
- ♦ Recommending use of existing mitigation banks;
- ♦ Recommending inclusion of acquisition of habitat as restoration type; and
- ♦ Recommending inclusion of the large number of unfunded CWPPRA projects or discrete smaller portions of projects (operations and maintenance, monitoring, site surveying, structure design, etc.) that could use financial support generated by the liabilities of responsible parties in a spill situation.

3. Goals

One commenter felt that the RRP Program needed to more strongly emphasize that the primary goal of NRDA is restoration of damaged ecosystems and not a rigorous accounting and compensation for individual organisms.

4. Preassessment

One commenter recommended that the RRP Program emphasize the importance of the preassessment phase to avoid claims on unreasonably small events.

5. Federal Trustee Support

One commenter stated that the success of the RRP Program will hinge on federal trustee support and acceptance. The commenter further stated that the federal trustees must approve the program as presented in the PEIS as well as the restoration projects included in the RRP.

6. Restoration Selection Process

One commenter recommended that the RRP Program ensure that restoration projects are selected on their merit according to the selection criteria to avoid any potential conflict of interest.

7. Floodplains

One commenter stated that for individual restoration project planning and implementation, local Floodplains Administrators must be contacted for a determination of whether a Floodplain Development Permit is needed.

8. Oyster Leases

One commenter raised an issue related to problems associated with the separation of public and private benefits that accrue from oyster leases. The commenter stated that in many instances the leased bottom has neither reefs nor cultch and is not currently productive oyster habitat.

9. RRP Regions

Comments were made concerning the proposed boundaries for RRP. One commenter agreed with the proposed boundaries and decision to follow the Coast 2050 plan for the boundaries in the coastal zone. Two commenters saw references in the coastal region descriptions to Region 10 but did not find a definition of it as indicated. Another commenter said that they were unable to see clearly the delineations between some regions due to the shading of the proposed regional map in the PRD. A commenter said that there too much ecological diversity in Region 7 which could possibly counter the concept of creating regions to have things "simplified due to similarities within these boundaries." Further the commenter stated that an easier way to simplify would be to define habitat categories and then develop appropriate restoration alternatives by habitat categories, thereby possibly eliminating the need to have regions.

10. Flexibility

One commenter asked who wanted the "increased flexibility" in the process: responsible parties, state trustees or federal trustees; or did all stakeholders come

up with this concept independently? The commenter stated that usually in Louisiana, something simple and less flexible allows less room for misunderstandings, misdirection or outright corruption.

Questions and Clarifications:

A number of questions were asked concerning the definition of terms and about NRDA in general. The following are the questions and responses:

- ◆ Why is US Environmental Protection Agency (USEPA) not designated a natural resource trustee?
Response: The President has not designated the USEPA as a natural resource trustee under the National Contingency Plan.
- ◆ What does “reasonable scaling” mean? What does “scale restoration alternative” mean?
Response: To ensure that a restoration action or alternative appropriately addresses the injuries resulting from an oil spill incident, the NRDA regulations under OPA require trustees to determine what scale of restoration is required to return injured natural resources to baseline levels and compensate the public for interim losses.
- ◆ What does “natural recovery” mean?
Response: Natural recovery is a primary restoration alternative in which no human intervention is taken after the response activities are over to directly restore injured natural resources and/or services to baseline.
- ◆ What does “populate the chart” mean?
Response: The question refers to a statement related to the chart or matrix on page 20 of the Public Review Draft. The trustees are proposing to fill out the matrix by identifying the restoration types that are found to be reasonable for restoring each of the proposed resource/service categories.
- ◆ Does “Org.” in “Water Column Org.” mean organisms?
Response: Yes