

original comment period is set to close on February 26, 2024. The extension is based on concern expressed by stakeholders that the February 26, 2024, closing date does not provide sufficient time to review and provide comprehensive comments. The FHWA recognizes that others interested in commenting may have similar concerns and agrees that the comment period should be extended. Therefore, the closing date for comments is changed to March 12, 2024, which will provide stakeholders and others interested in commenting additional time to discuss, evaluate, and submit responses to the docket.

DATES: Comments must be received on or before March 12, 2024. Late-filed comments will be considered to the extent practicable.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to www.regulations.gov and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590;
- *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, between 9:00 a.m.–5:00 p.m., e.t., Monday through Friday, except Federal holidays. The telephone number is (202) 366-9329;
- *Instructions:* You must include the agency name and docket number or the Regulatory Identification Number for the rulemaking at the beginning of your comments. All comments received will be posted without change to www.regulations.gov, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mrs. Alexis Kuklenski, Office of Infrastructure, (202) 689-9229, Alexis.Kuklenski@dot.gov, or Ms. Dawn Horan, Office of the Chief Counsel, (202) 366-9615, Dawn.M.Horan@dot.gov, Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document and all comments received may be viewed online through the Federal eRulemaking portal at www.regulations.gov. The website is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded by accessing the Office of the Federal

Register's home page at: www.federalregister.gov.

Background

On January 25, 2024, at 89 FR 4857, FHWA published in the **Federal Register** an NPRM proposing updates to the National Performance Management Measure regulations. The original comment period for the NPRM closes on February 26, 2024. Stakeholders have expressed concern that this closing date does not provide sufficient time to review and provide comprehensive comments on the proposal. The FHWA recognizes that others interested in commenting may have similar concerns and agrees that the comment period should be extended by 15 days for these organizations and others to submit comprehensive comments. The closing date is changed from February 26, 2024, to March 12, 2024.

Authority: 23 U.S.C. 134, 135, 148, and 150; 49 CFR 1.85.

Shailen P. Bhatt,

Administrator, Federal Highway Administration.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 166 and 167

[Docket No. USCG-2019-0279]

Shipping Safety Fairways Along the Atlantic Coast; Geographic Information System Files

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability.

SUMMARY: The Coast Guard published a proposed rule detailing the potential establishment of shipping safety fairways along the Atlantic coast. In order to help stakeholders visualize the proposed fairways, the Coast Guard is making geographic information system files available for public access.

DATES: Comments submitted on the proposed rule published January 19, 2024, at 89 FR 3587, must be received by the Coast Guard on or before April 18, 2024.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Maureen Kallgren, Coast Guard; telephone 202-372-1561, email Maureen.R.Kallgren2@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard published a proposed rule on

January 19, 2024, proposing a series of shipping safety fairways along the Atlantic Coast (89 FR 3587). If you want to submit comments or related material on the proposed rule they must be received by the Coast Guard on or before April 18, 2024.

In order to visualize the dimensions of the proposed fairways, many stakeholders reached out and asked for the geographic information system (GIS) files that chart the fairways. A GIS file displays geographically referenced information, in this case the location and dimensions of the proposed fairways. These files are now available for public access at <https://www.navcen.uscg.gov/rulemaking-files>.

This document is issued under authority found in 5 U.S.C. 552(a).

Dated: February 6, 2024.

Steven E. Ramassini,

Captain, United States Coast Guard, Chief, Office of Navigation Systems.

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 11

[Docket No. DOI-2022-0016; 24XD1618EN, DS61600000, DMNHQ0000.000000]

RIN 1090-AB26

Natural Resource Damages for Hazardous Substances

AGENCY: Office of Restoration and Damage Assessment, Interior.

ACTION: Notice of Tribal consultation meetings and extension of public comment period.

SUMMARY: The Department of the Interior is announcing the dates of Tribal consultation meetings to gather information to revise the simplified Type A procedures in the regulations for conducting natural resource damage assessment and restoration for hazardous substance releases. We are also extending the comment period on our Notice of Proposed Rulemaking issued on January 5, 2024.

DATES: The public comment period on our request for information notice that published on January 5, 2024, at 89 FR 733 is extended. Interested persons are invited to submit comments by 11:59 p.m. April 5, 2024.

The Office of Restoration and Damage Assessment will host virtual Tribal consultation sessions at the dates and times below. Please use the following links to register for one of the sessions:

Tuesday, March 26th at 1 p.m. (eastern):
<https://msteams.link/YWY9>
 Wednesday, March 27th at 10 a.m.
 (eastern): <https://msteams.link/EWXT>
 Thursday, March 28th at 1 p.m.
 (eastern): <https://msteams.link/ZBQM>

ADDRESSES: Comments may be submitted through <https://www.regulations.gov> and will be available for public viewing and inspection. In the Search box, enter the docket number presented above in the document headings. For best results, do not copy and paste the number; instead, type the docket number into the Search box using hyphens. Then, click on the Search button. You may submit a comment by clicking on “Comment.” Comments may also be hand delivered or mailed to the Office of Restoration and Damage Assessment, U.S. Department of the Interior, 1849 C Street Northwest, Mail Stop/Room 2627, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT:

Emily Joseph, Director, Office of Restoration and Damage Assessment, (202) 208-4438, or by email to emily_joseph@ios.doi.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The current regulations describe how to conduct a natural resource damage assessment and restoration (NRDAR) for hazardous substance releases under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601, 9607) (CERCLA) and the Federal Water Pollution Control Act (33 U.S.C. 1251, 1321) (Clean Water Act). CERCLA required the President to promulgate these regulations. 42 U.S.C. 9651(c). The President delegated this rule writing responsibility to the Department of the Interior (DOI). E.O. 12316, as amended by E.O. 12580. The regulations appear at 43 CFR part 11.

A natural resource damage assessment is an evaluation of the need for, and the means of, securing restoration of public natural resources following the release of hazardous substances or oil into the environment. The Department of the Interior has previously developed two types of natural resource damage assessment regulations: Standard procedures for simplified assessments requiring minimal field observations

(Type A Rule); and site-specific procedures for detailed assessments in individual cases (Type B Rule). The Type A Rule was last revised in November 1997. It provides two distinct formulas for modeling damages for natural resource injuries caused by hazardous substance releases to coastal and marine environments and Great Lakes environments, respectively. In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA) 42 U.S.C. 9601 *et seq.*, damages calculated in accordance with Type A or Type B procedures are entitled to a “rebuttable presumption” of correctness in any administrative or judicial proceeding. The rebuttable presumption for the Type A procedure under the current version of the rule is limited to damages of \$100,000 or less.

The regulations we are proposing to revise only cover natural resource damage assessments for releases of hazardous substances under CERCLA and the Clean Water Act. There are also natural resource damage assessment regulations at 15 CFR part 990 that cover oil spills under the Oil Pollution Act, 33 U.S.C. 2701, (the OPA regulations). The current hazardous substance natural resource damage assessment and restoration regulations, this preamble, and the proposed revisions to the regulation use “restoration” as an umbrella term for all types of actions CERCLA and Clean Water Act authorize to address injured natural resources, including restoration, rehabilitation, replacement, or acquisition of equivalent resources.

Natural resource damage assessments are conducted by government officials designated to act as “trustees” to bring claims on behalf of the public for the restoration of injured natural resources. Trustees are designated by the President, State governors, or Tribes. If trustees determine, through an assessment, that hazardous substance releases have injured natural resources, they may pursue claims for damages against potentially responsible parties. “Damages” include funds needed to plan and implement restoration, compensation for public losses pending restoration, reasonable assessment costs, and any interest accruing after funds are due.

The regulations establish an administrative process for conducting assessments that include technical criteria for determining whether releases have caused injury, and if so, what funds are needed to implement

restoration. The regulations are for the optional use of trustees. Trustees can use the regulations to structure damage assessment work, frame negotiations, and inform restoration planning. If litigation is necessary to resolve the claim, courts will give additional deference—referred to as a “rebuttable presumption” in CERCLA—to assessments performed by Federal and State trustees in accord with the regulations.

The Department is proposing to reformulate the Type A Rule as a procedural structure for negotiated settlements by utilizing tools tailored to incidents of smaller scale and scope. We believe that this aligns better with the original statutory purpose of providing a streamlined and simplified assessment process as a companion to the more complex Type B Rule—to reduce transaction costs and expedite restoration in a broader range of less complex and contentious cases. Our objective is to essentially formalize beneficial practices that have evolved since the 1997 promulgation of the Type A Rule. Specifically, Trustees have utilized well-established methodologies such as habitat equivalency analysis (HEA), resource equivalency analysis (REA), and other relatively simple models to assess natural resource injury in smaller incidents that do not necessarily warrant the more prescriptive Type B procedures.

Our proposed revisions would largely leave the framework of the existing rule intact. We are not proposing any substantive changes to legal standards for reliability of assessment data and methodologies. We are soliciting comments only on the proposed revisions to the CERCLA Type A regulations.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Joan M. Mooney,

Principal Deputy Assistant Secretary, Exercising the Delegated Authority of the Assistant Secretary—Policy, Management and Budget.

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