

Natural Resource Damage Assessment and Restoration Advisory Committee

Subcommittee 3

November 30, 2006
Department of Interior
Washington, DC



Subcommittee 3 Questions

Should DOI revise the CERCLA NRD regulations to permit flexibility to allow for compensating for interim losses with additional restoration projects in lieu of monetary damages for the value of the loss?

- Question originally read in pertinent part: “to encourage compensating for interim losses with additional restoration projects (in lieu of monetary damages)”

How should project-based interim loss compensation claims be calculated?

Project-based approaches should be an option

- Comports with restoration objective
- Restoration projects can replace lost services at less cost than the monetized value of the lost services, thereby fostering settlements
- Easier to explain to public than valuation
- Consistent with OPA approach

Are changes to rules necessary to permit project-based approaches?

- No -- no evidence that rules impede project-based approach
- If DOI deems clarifying amendment necessary, Subcommittee recommends modifying 40 CFR §11.83(c)(1) as follows [new text in boldface]:

“Compensable value is measured by changes in consumer surplus, . . . and any economic rent accruing to a private party. **Alternatively, compensation can be based upon the cost of a project that most efficiently restores the loss in natural resource services.**”

Issues Needing Further Refinement

- Discussion of available methods for valuing interim lost uses
- Discussion of criteria to be used to determine whether a method is reliable