ATTACHMENT B
METHODS USED TO SUPPORT THE BURDEN AND COST CALCULATIONS

Natural Resource Damage Assessments (43 CFR Part 11)
OMB Control Number 1091-0002

RIN 1090-AB26, "*Natural Resource Damage Assessment and Restoration--Hazardous Substances,*" as well as for existing information collections contained in 43 CFR Part 11.

Changes to this document since OMB's review at the proposed rule stage are highlighted in yellow.

2. [Duplicated here for reference] Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.

Table 2.1. Overview of Information Collection and Documentation by Natural Resource Trustees for Purposes of [Natural Resource Damage Assessment and Restoration] NRDAR

Information Type	Information Description	Authority
Proposed Type A Report ***(MODIFIED)***	If a Type A is used, the Report already must include the information specified in subpart D. The new regulations will seek to clarify the content of the Type A Report based on the proposed changes.	43 CFR 11.90(b)
Type B Report of Assessment (ROA) ***(EXISTING)***	The completion of an assessment is documented in the ROA, which consists of the Preliminary Assessment Screen (PAS), Preliminary Estimate of Damages (PED), Assessment Plan (AP), Restoration and Compensation Determination Plan (RCDP), Restoration Plan (RP; when prepared for settlement), and response to public comments. • The PAS is a rapid review of readily available information to make a determination as to whether an NRDAR will be carried out (43 CFR 11.23, 11.24 and 11.25). • The purpose of the PED is to inform the Assessment Plan to ensure that the choice of the scientific, cost estimating, and valuation methodologies expected to be used in the NRDAR are reasonable cost. The PED typically relies on available information (43 CFR 11.38). • The AP must identify and document the use of all of the Type A and/or Type B procedures that will be performed, including any proposed injury studies, as well as potential studies to identify early restoration opportunities and potential effectiveness. The AP is published for public comment (43 CFR Part 11 Subpart C). • The RCDP provides a reasonable number of possible restoration alternatives, identifies the preferred one and the actions required for implementation, and describes the methods and results of the injury determination, injury quantification, and damages	43 CFR 11.90(a) and (c)

	determination (monetary or in-kind projects). The RCDP uses literature, site data, and study data, and Trustees' decision making; it is published for public comment (43 CFR 11.81). • Although the RP is identified as part of a post-assessment activity, [the Office of Restoration and Damage Assessment] ORDA addressed Departmental and Congressional interest in timely restoration through policy by defining a "restoration-based settlement" to include a legally binding Consent Decree and concurrent final Restoration Plan. Therefore, the RP may be produced before or after settlement, and is published for public comment. The level of effort on a post-settlement RP is assumed to be the same as for settlement. For purposes of this ICR, the RP is considered to be part of the Type B ROA (43 CFR 11.93; • ORDA Restoration Policy)

12. Provide estimates of the hour burden of the collection of information. The statement should:

* **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
* **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
* **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.**

Summary

It is estimated that we will receive **155 annual responses** totaling **513,926 burden hours** for this information collection (see Attachment A). The annual dollar value of the burden hours is estimated at **$73,316,282** (rounded) (see Attachment A). The inputs and assumptions selected for evaluation are primarily maximum values based on limited available data, thus the results of this information collection analysis may err high. We used available data and best professional judgment on Type B assessments to inform Type A assessments, but given the proposed expedited process of Type A, we expect costs could be lower.

Introduction

To obtain a rebuttable presumption under CERCLA and the NRDAR regulations (43 CFR Part 11), Federal, State and Tribal Trustees, and the potential responsible parties (PRPs), need to read the regulations and assemble materials. The Trustees develop the documentation described in Table 2.1. PRPs may cooperatively develop these materials, or review and comment on them. The Trustees produce the claims for settlement, and rarely litigation when settlement negotiations fail. As identified in Table 2.1, some reports are released for public comment. Paid consultants (e.g., scientists, analysts, attorneys, accountants), hired by both Trustees and PRPs, are not separately itemized because their burden and costs are already built into the assessment cost and settlement data, and would be double-counting.

Inputs and Assumptions

The CERCLA assessment universe and costs are less well understood than for oil spills (see, e.g., Advanced Resources International, Inc. 1993; Helton and Penn 1999, Etkin 2004, Oil Spill Liability Trust Fund Disbursement Reports to Congress (comprehensive for FY 2018 and earlier). The publicly-available cost data for CERCLA are generally limited to the NRDAR settlements, which include the reimbursed past assessment costs incurred by Trustees to produce the information plus the restoration, which are paid by the PRPs. The estimated annual burden hours and costs associated with this ICR are based on a review of available data, literature, and consultation with NRDAR experts.

Data from ORDA indicate an annual average of nine and median of 10 Authorized Official (AO) nominations for the 10-year period from 2013 through 2022. The selection of an AO is the start of the NRDAR process at Interior and can be used as a measure of new Type A and Type B assessments. An evaluation of 57 CERCLA assessments (i.e., cases) in ORDA's Damage Assessment and Restoration Tracking System (DARTS) with settlements from 1992 to the present identified approximately 36 that could have been considered for Type A assessment instead of Type B assessment based on the $5 million threshold in the proposed rule; 27 could have been considered under the $3 million threshold (all nominal, i.e., current values; not present value). Data evaluation showed:

- **Type A** assessments took an average of seven years from start to settlement for the 36 Type B assessments that could have been considered Type A under the proposed rule. For purposes of this analysis, we erred high on the average cost estimates by assuming two years to settlement will be possible following the new rulemaking (i.e., the total costs are divided by two years instead of the seven years identified in the data for annualization). Based on a frequency analysis of the 36 CERCLA assessments that could be Type A, there was an average of one per year with a range of zero to six new assessments per year.

- **Type B** assessments took an average of 10 years from start to settlement for the 21 CERCLA cases that would have remained Type B assessments. A frequency analysis of these 21 Type B assessments indicated there was an average of one new assessment per year with a range of zero to four new assessments per year.

Based on this evaluation, we used the upper end of the ranges and assumed six new Type A and four new Type B cases per year. This is consistent with the median of 10 new AOs per year. Because cases and the associated information collection occur over time, we estimated an annual average of six new and three ongoing Type A and four new and 18 ongoing Type B assessments. We recognize that the proposed Type A rule could attract interest in conducting more new Type A assessments; however, there are no data to determine the number. Anecdotal information on staffing capacity does not indicate room for a substantial expansion of the universe of assessments. For purposes of this ICR, we assumed the mix of Type A and Type B assessments would change, not the total number of assessments. This assumption can be reevaluated during the ICR renewal.

Our evaluation used the following categories of respondents:

Trustees
The reimbursed past assessment costs are assumed to be the Trustees' costs of this ICR, which includes the costs of any consultants. This assumes *all* activities contribute to the reports of assessment. The Federal trustees' burden is not easily separable from the State and Tribal co-Trustees. A review of data in DARTS finds 12 percent of cases have only State and/or Tribal Trustees. Additional review of a limited amount of settlement data led us to conclude 20 to 30 percent of the Trustees' total burden are incurred by non-Federal co-trustees. We erred high and assumed 30 percent for purposes of this ICR. So, given the available data, a total burden to all Trustees was calculated, then 30 percent was allocated to "State/Tribal" for use in this Q12 and 70 percent was allocated to the "Federal Government" estimate in Q14.

NRDAR with Interior involvement will typically follow the regulations, which affects co-Trustees, consultants, and the PRPs. We think it is reasonable to focus on the Interior universe of CERCLA assessments for this ICR. Using data in DARTS from settled CERCLA cases and NRDAR case expertise, we assumed Trustees' mean expenditure on the ICR is $673,000 for the Type A (rounded past assessment costs on settlements less than $5 million). We assumed a mean of $2.8 million for each Type B assessment (rounded past assessment costs on settlements greater than $5 million). We also relied on information provided by the National Pollution Funds Center (NPFC) in OMB Control Number 1625-0067. The NPFC adjudicates NRDAR claims for oil spills and has more comprehensive information available on the private and non-federal public sector.

We used information from the Bureau of Labor Statistics (BLS) News Release USDL- 25-0335, March 14, 2025, Employer Costs for Employee Compensation—December 2025, to estimate the costs per hour for non-Federal Trustees. The Federal labor costs are evaluated in Attachment A.

It is important to understand that one respondent is equal to one NRDAR case for both Type A and Type B Assessments. The available average cost data are for a case and are not scalable by the number of Trustees.

PRPs
Given NRDAR activities are conducted in a litigious setting, there are limited available data on additional costs incurred by the PRPs. We can assume that PRPs would not expend more producing and reviewing information than the total settlement based on the expected value of outcomes, though even that assumption is flawed when there are incentives to set certain precedents. For purposes of this analysis, we defined a worst-case scenario of additional private costs (including private consultants and hired attorneys) equal to average monetary settlement.[1] Using data in DARTS from settled CERCLA cases, we assumed a worst-case scenario of PRP expenditure on the ICR equal to $1.8 million for the Type A (average of settlements less than $5 million) and $28.5 million for Type B assessments (average of settlements more than $5 million). We also used information from the NPFC, which has access to information from the private sector that is not available to Interior.

The cost burden associated with NRDAR activities are often conducted using contracted services, which do not fit well within the hourly rates published by the BLS. The cost of these services can vary widely depending on size of the consulting company, the seniority of the persons providing the services, and the reputation of the consulting firm. Although PRPs come from a wide range of industries, we used BLS May 2023 National Industry-Specific Occupational Employment and Wage Estimates for NAICS Code 211100, "Oil and Gas Extraction" as

[1] There are insufficient data to evaluate settlements that include in-kind restoration projects.

representative of PRPs and their consultants. The mean hourly wage is $105.75 (rounded average of 11-9121 Natural Sciences Managers ($102.95) and 23-1000, Lawyers ($108.55)). To account for benefits, we used 42% as an average overhead rate for contracted work for a total of $150.17 per hour (see Attachment A). This rate may run low given some limited information from the NPFC.

Like the Trustees, one respondent is equal to one NRDAR case for both Type A and Type B Assessments. The available average cost data are for a case and are not scalable by the number of PRPs.

General Public

There is no tracking system for public comments on documents in NRDAR cases. Anecdotally, mostly high-profile NRDAR cases receive public comments. For perspective, the Deepwater Horizon (Gulf Coast) Oil Spill RP for birds and sturgeon received "74 comments via the public meeting and web submissions"[2]; "53 comments via the public meetings, webinars, and web submissions"[3] were submitted on the RP for fish, sea turtles and marine mammals. There were 23 comments on the Portland Harbor, Oregon, RP.[4] The Coeur d'Alene, Idaho, Trustees' interim RP received two letters with comments.[5] There were no public comments on the DuPont Newport, Delaware, and Iron Mountain Mine, California, RPs.[6] The Hudson River, New York, Trustees reported "numerous" public comments on their assessment plan (AP) in their Responsiveness Summary.[7] The Lavaca Bay, Texas, AP received 13 comments.[8] These cases likely reflect the range of public comments for Type B assessments. Because there are no readily available data on the number of public comments in smaller cases, nor for the expected level of effort associated with voluntary public comments for Type A or Type B assessments, we had to rely on best professional judgment.

For purposes of this information collection, we assumed a maximum of five public comments for Type A and 30 public comments for Type B, which we think are higher-end estimates for the majority of NRDAR cases. The estimated burden is 40 hours per comment, which is 25 hours[9] spent reading the documents, 10 hours to review the CERCLA regulations (from the NPFC), and five hours to document the comments (best professional judgment based on limited review of average length of comment letters). In our experience, industry representatives and consultants would be most likely to invest this much time in comments.

We used Table 1 from the News Release USDL- 25-0335 to estimate the costs per hour. This

[2] https://www.gulfspillrestoration.noaa.gov/sites/default/files/DWH-ARZ002398.pdf
[3] https://www.gulfspillrestoration.noaa.gov/sites/default/files/DWH-ARZ003947.pdf
[4] https://pub-data.diver.orr.noaa.gov/portland-harbor/20100601_FNLAssessmentPlan_0930.pdf
[5] https://www.cerc.usgs.gov/orda_docs/DocHandler.ashx?task=get&ID=204
[6] https://www.gc.noaa.gov/gc-rp/DuPont-Newport-DARP-EA-FINAL-02-07.pdf; https://www.gc.noaa.gov/gc-rp/imm-rp.pdf
[7] https://www.dec.ny.gov/docs/wildlife_pdf/hrressum.pdf
[8] https://www.gc.noaa.gov/gc-rp/lavdarp2.pdf
[9] The documents covered by this ICR have a wide variety of fonts, line space, margins, and usage of photos, tables, and white space. For purposes of analysis, we assumed common fonts (Times New Roman, Arial), 12 pt, single space, and 1-inch margins, which anecdotally result in 500 words per page. A meta-analysis on reading rate found the estimated average "silent reading rate for adults in English is 238 word per minute (wpm)," and a "range of 175-300 wpm for silent reading of non-fiction texts" (http://dx.doi.org/10.31234/osf.io/xynwg , p. 45). Given the technical nature of NRDAR documents, we assume 175 wpm. Based on a review of the lengths of document types covered by this ICR, 25 hours were estimated for Type B based on an average total of 517 pages of reading. This burden is also applied to Type A, which would likely be an over-estimate.

rate is representative of the general public, and follows ICR guidance, but would under-estimate the costs for comments from industry and consulting firms.

Five respondents are equal to one Type A case. When annualized over two years, this equals 2.5 respondents (rounded to 3) per Type A case per year.

Thirty respondents are equal to one Type B case. When annualized over 10 years, this equals three respondents per Type B case per year.

In summary, the average hourly wage rates, including benefits, for the public, Trustees, and PRPs are:

- "Individuals/Households" (public) – the hourly rate for all workers is $49.32, including benefits
- "Private Sector" (PRPs and their consultants) – the hourly rate for all workers is $151.23, including benefits (rounded).
- "State/Tribal" (non-Federal Trustees) – the hourly rate for all workers is $66.41, including benefits.
- "Federal Government" (Federal Trustees) – the hourly rate for all workers is $77.39, including benefits (rounded).

Results
Table 12.1 provides the information collection analysis for Type A assessments; Table 12.2 covers the Type B assessments. As discussed earlier, paid consultants (e.g., scientists, analysts, attorneys, accountants) were not separately itemized because their burden and costs are already built into the assessment cost data and would be double-counting.

The format and language of Tables 12.1 and 12.2 are provided/guided by OMB. For this information collection:

- "Individuals/Households" = Public commenters
- "Private Sector" = PRP and their consultants
- "State/Tribal" = State and Tribal Co-Trustees
- "Number of Annual Respondents" = Entities per case (i.e., three annual public commenters per case; one PRP (as discussed above, cases can actually include multiple PRPs and supporting consultants but they are treated as one entity); and one set of non-Federal Trustees (can include multiple States and/or Tribes)).
- "Number of Responses per Respondent" = Annual estimate of Type A or Type B cases (e.g., we estimate 3 public comments per case per year and 9 Type A cases per year, resulting in 27 "Total Annual Responses" in Table 12.1).
- "Completion Time/Response (Hours)" = 40 estimated hours for public commenters; back-calculated hours from data on total assessment costs and the "Hourly Labor Rate (Incl. Benefits) for non-Federal Trustees and PRPs.
- "Total Annual Responses" x "Completion Time/Response (Hours)" = "Annual Burden Hours"
- "Annual Burden Hours" x "Hourly Labor Rate (Incl. Benefits)" = "$ Value of Annual Burden Hours"

Table 12.1. Estimated Total Annual Burden for Six New and Three Ongoing Type A Assessments

Regulation/Activity	Number of Annual Respondents	Number of Responses per Respondent	Total Annual Responses	Completion Time/ Response (Hours)	Annual Burden Hours*	Hourly Labor Rate (Incl. Benefits)	$ Value of Annual Burden Hours
Type A Report § 11.41 ***(MODIFIED)***							
Individuals/Households	3	9	27	40.00	1,080	$49.32	$53,265.60
Private Sector	1	9	9	5,882.35	52,941	151.23	8,006,267.43
State/Tribal	1	9	9	1,738.12	15,643	66.41	1,038,851.63
Subtotal	***5***		***45***		***69,664***		***$9,098,384.66***

Table 12.2. Estimated Total Annual Burden for Four New and 18 Ongoing Type B Assessments

Regulation/Activity	Number of Annual Respondents	Number of Responses per Respondent	Total Annual Responses	Completion Time/ Response (Hours)	Annual Burden Hours*	Hourly Labor Rate (Incl. Benefits)	$ Value of Annual Burden Hours
Type B Report of Assessment § 11.60(c)&(d), and § 11.90) ***(EXISTING)***							
Individuals/Households	3	22	66	40.00	2,640	$49.32	$130,204.80
Private Sector	1	22	22	18,627.45	409,804	151.23	61,974,658.92
State/Tribal	1	22	22	1,446.28	31,818	66.41	2,113,033.38
Subtotal	***5***		***110***		***444,262***		***$64,217,897.10***

We estimate **155 annual responses** totaling **513,926 burden hours** for this information collection. The annual dollar value of the burden hours is **$73,316,282** (rounded).

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory**

compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

We have not identified any non-hour cost burden associated with this collection.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

As discussed in Q12, the Trustees' total costs were first estimated and then 30 percent was allocated to the non-federal Trustees and 70 percent was allocated to the Federal Trustees. The federal labor rate is an estimated $74.33 per hour (see Attachment A). The total annualized cost to the federal government is estimated at **$7,095,734** (see Table 14.1 and Attachment A).

Table 14.1. Estimated Total Annual Federal Burden for Six New and Three Ongoing Type A Assessments and Four New and 18 Ongoing Type B Assessments

Regulation/Activity	Number of Annual Respondents	Number of Responses per Respondent	Total Annual Responses	Completion Time/ Response (Hours)	Annual Burden Hours*	Hourly Labor Rate (Incl. Benefits)	$ Value of Annual Burden Hours
Type A Report § 11.41 ***(MODIFIED)***							
Federal Government	1	9	9	3,357.80	30,220	$ 77.39	$2,338,725.80
Type B Report of Assessment § 11.60(c)&(d), and § 11.90) ***(EXISTING)***							
Federal Government	1	22	22	2,794.01	61,468	$ 77.39	$4,757,008.52
Grand Total	**2**		**31**		**91,688**		**$7,095,734.32**