



## NRD Restoration Banking Frequently Asked Questions (FAQs)

### **What is NRD Restoration Banking?**

Natural Resource Damage (NRD) restoration banking is up-front restoration utilizing third-party, private investment to facilitate resolution of NRD liability. The NRD restoration banking program will provide the State's Natural Resource Trustees with a streamlined alternative method to efficiently restore injury caused by the release of oil into the Louisiana coastal area. Under the NRD restoration banking program, a private company ("sponsor") will conduct restoration projects at a coastal site, referred to as a "restoration bank," thereby generating ecological credits in advance of an oil spill. These credits could then be purchased by responsible parties (RPs) following an oil spill in the Louisiana coastal area to reduce or resolve their liability under the Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2701 *et seq.*, and the Louisiana Oil Spill Prevention and Response Act, La. R.S. 30:2451 *et seq.* (OSPRA).

### **When can NRD Restoration Banking be utilized?**

The NRD restoration banking program applies only to oil spills occurring in the Louisiana coastal area, defined in Louisiana R.S. 49:214.2(4) as "the Louisiana Coastal Zone and contiguous areas subject to storm or tidal surge and the area comprising the Louisiana Coastal Ecosystem as defined in Section 7001 of P.L. 110-114." Both statutes essentially define oil as oil of any kind or form, which includes petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. This does not include any substance designated hazardous under subparagraphs A-F of Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

### **What is the advantage of the NRD restoration banking program for RPs?**

By participating in the NRD restoration banking program, responsibility for the restoration project is transferred from the RP to the bank sponsor. Because these projects are expected to be implemented and functioning in advance of generating credits, any uncertainty about whether the project will be successful in offsetting the impacts from spilled oil is minimized. The availability of restoration banks to resolve NRD liability potentially can facilitate early settlement and/or reduce the need for and administrative costs associated with the design and development of multiple, spill-specific restoration projects.

### **What is the advantage of the NRD restoration banking program for the public?**

It is often ecologically and financially advantageous to consolidate restoration into a single large parcel or contiguous parcels, and the NRD restoration banking program will aim to restore larger blocks of habitat, providing greater ecosystem benefits than smaller, project-by-project restoration efforts can deliver and generating economies of scale that can result in cost savings. Because projects will be developed in advance of an oil spill, by private investors, more ecological restoration will occur sooner than it would in the absence of the restoration banking program, and using private rather than public funds. This type of public-private partnership program can harness expertise from the public and private sectors to build projects in a cost-efficient manner that maximizes ecological



benefits. Essentially, because restoration banks must be consistent with the goals and objectives of Louisiana's Coastal Master Plan to be eligible for the NRD restoration banking program, and because the NRD restoration banking program has a preference for the implementation of Coastal Master Plan projects as restoration banks, private investment through the program will enable high priority coastal restoration projects to take place more quickly and at a lower cost than they would otherwise.

### **How are restoration projects chosen?**

Proposed banks must be consistent with the goals and objectives of the Coastal Master Plan to be eligible for the NRD restoration banking program. CPRA has a preference for proposed banks that construct projects identified in the Coastal Master Plan, or that are increments, add-ons, or enhancements of Coastal Master Plan projects. Banks implementing Coastal Master Plan projects perform restoration in areas the State has designated as high priority, providing elevated ecological benefit and increased sustainability. The regulations will set forth additional details on bank application and selection.

### **What is a restoration credit?**

A credit is a unit of trade generated by a certified NRD restoration bank and representing a defined quantum of ecological benefit generated by the restoration bank, as measured by acreage or other metric. The principal units for credits are anticipated to be acres, reflecting the anticipated post-construction number of acres by habitat type and minimum performance criteria compared to pre-construction acres by habitat type and key measures of habitat condition. Other restoration credits units will be considered on a case-by-case basis. The regulations will establish a process for calculating the number and type of restoration credits generated by a restoration bank, as well as the release of those credits.

### **What is the NRD Banking Instrument?**

The NRD Banking Instrument is an agreement between the State and the bank sponsor that details the objectives and administration of the bank. It describes in detail the physical and legal characteristics of the bank, including the types and numbers of restoration credits expected to be generated, when those credits may be released for sale to RPs, and how the bank will be monitored and operated.

### **Is restoration required to be “on-site” (i.e., located close to the impact) and “in-kind” (i.e., the replacement is of the same ecological type as the impacted resource)?**

Decisions regarding the preferred restoration action selected to compensate for injuries on a given spill, including whether an RP may purchase credits from a certified NRD restoration bank, will be made by the Natural Resource Trustees on a spill-by-spill basis, consistent with the requirements of OPA and OSPRA.