



**Guidance for Certification and Use of New and Existing Banks  
in Louisiana's Natural Resource Damage Restoration Banking Program**

Louisiana's Natural Resource Damage (NRD) Restoration Banking Program is designed and intended to provide a mechanism to bring funding from the private sector through public-private partnerships to implement new restoration projects in coastal Louisiana. Louisiana's NRD Restoration Banking Program allows private investors to undertake restoration projects and generate restoration credits that responsible parties can purchase to reduce or resolve liabilities for damages to natural resources and services under the Oil Pollution Act, 33 U.S.C. § 2701 *et seq.* (OPA), and the Louisiana Oil Spill Prevention and Response Act, La. R.S. 30:2451 *et seq.* (LOSPRA), from oil spills occurring in the Louisiana Coastal Area. Because it is often ecologically and financially advantageous to consolidate restoration into a single large parcel or contiguous parcels, the NRD Restoration Banking Program aims to use private sources of capital to restore larger blocks of habitat and provide greater ecosystem benefits in a more efficient and cost-effective manner than smaller, spill-by-spill restoration efforts can deliver.

In July 2017, Louisiana promulgated regulations for the establishment of its NRD Restoration Banking Program. *See*, LAC 43:XXXI, Louisiana Register Vol. 43, No. 07, July 20, 2017. The purpose of this document is to provide guidance for certification and use of new and existing banks in Louisiana's NRD Restoration Banking Program.

Unless defined specifically below, technical terms used in this Guidance have the same definition given to them in Louisiana's NRD Restoration Banking Program Regulations.

The Louisiana Coastal Protection and Restoration Authority (CPRA) issues the following Guidance consistent with Louisiana's NRD Restoration Banking Program Regulations:

- 1) The decision to certify a restoration bank is an exercise of natural resource damage banking review team (BRT) discretion. No Bank Sponsor has a right to have a bank or other restoration project recognized as an NRD restoration bank. The BRT may impose terms and conditions necessary to address general and site-specific goals and policies.
- 2) Certification of a restoration bank does not guarantee that a given number of restoration credits will be sold (if any) nor does it require a trustee council to treat acquisition of restoration credits from a restoration bank as one or an exclusive means of resolving natural resource damage liability for a specific incident. Once released, restoration credits may only be purchased to reduce or resolve NRD liability for a specific release of oil if the application of the credits to that spill has been approved by the appropriate NRDA trustees.

- 3) A “new NRD restoration bank” is a bank that proposes a new, previously unconstructed restoration project. Louisiana encourages sponsors of new NRD restoration banks that are considering or in the process of seeking certification under multiple regulatory programs (i.e., a Multi-Use Restoration Bank) to submit a Prospectus for consideration in Louisiana’s NRD Restoration Banking Program concurrent with initiation of the certification process for those other programs to the extent practicable. New NRD restoration banks may be located adjacent to or in the vicinity of existing banks but may not spatially overlap with existing banks.
- 4) An “existing bank” is a bank that has been certified under another regulatory program (i.e., CWA 404 Compensatory Mitigation Program), and was constructed prior to submission of the Prospectus for consideration in Louisiana’s NRD Restoration Banking Program.
- 5) If a Restoration Bank Sponsor submits an “existing bank” to the BRT for consideration under Louisiana’s NRD Restoration Banking Program, the Sponsor must also propose to construct “significant additional restoration.”
  - a. If a Sponsor is seeking to generate NRD restoration credits from restoration actions undertaken within the original footprint of the existing bank’s already constructed restoration project, that Sponsor must propose “significant additional restoration” within the original footprint of and/or adjacent to the existing bank in order to be considered under Louisiana’s NRD restoration banking program.
  - b. The “significant additional restoration” will be evaluated by the BRT on a case-by-case basis in consultation with the Restoration Bank Sponsor.
  - c. The BRT will determine whether the proposed restoration action or actions yield significant additional ecological uplift or some other significant additional restoration benefit over and above what was previously constructed sufficient to meet the “significant additional restoration” threshold to qualify for consideration under Louisiana’s NRD restoration banking program.