

FACT SHEET

HUDSON RIVER

Trustees Assessment Update



The Hudson River Natural Resource Trustees – the [National Oceanic and Atmospheric Administration \(NOAA\)](#), the [U.S. Department of the Interior \(DOI\)](#), and [New York State](#) (the Trustees) – are continuing to determine how polychlorinated biphenyls (PCBs) released from the General Electric Company (GE) plants at Fort Edward and Hudson Falls, New York harm the natural resources of the Hudson River and the surrounding ecosystem.

The Trustees' goal is to represent the interest of the public by measuring how much harm has been caused by PCBs, and determining how much restoration is necessary to address this harm. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authorizes the EPA to oversee hazardous substance remediation, and authorizes Natural Resource Trustees to conduct Natural Resource Damage Assessments. Through CERCLA, Congress holds polluters responsible for cleaning up hazardous substances and compensating the public for harm caused by these releases. At the Hudson River PCBs Superfund Site, both remediation and damage assessment efforts are currently ongoing.

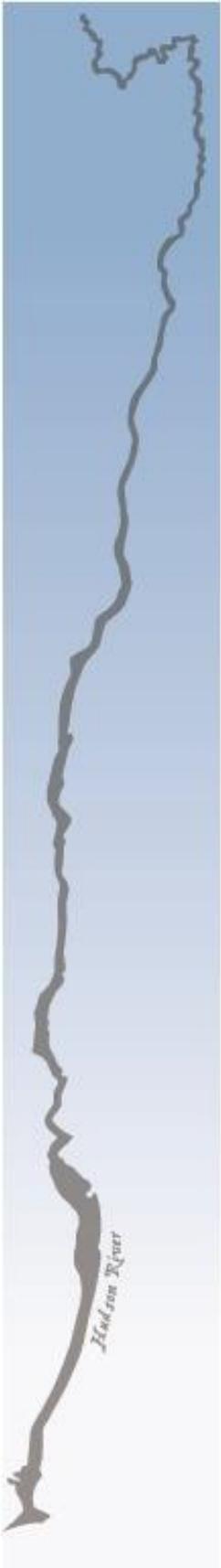
The purpose of this fact sheet is to describe a sequence of Assessment steps for the Natural Resource Damage Assessment process being undertaken by Trustees under the DOI Natural Resource Damage Assessment regulations (43 C.F.R. Part 11). The three Assessment Phases are: **Injury Determination**, **Injury Quantification**, and **Damage Determination**.

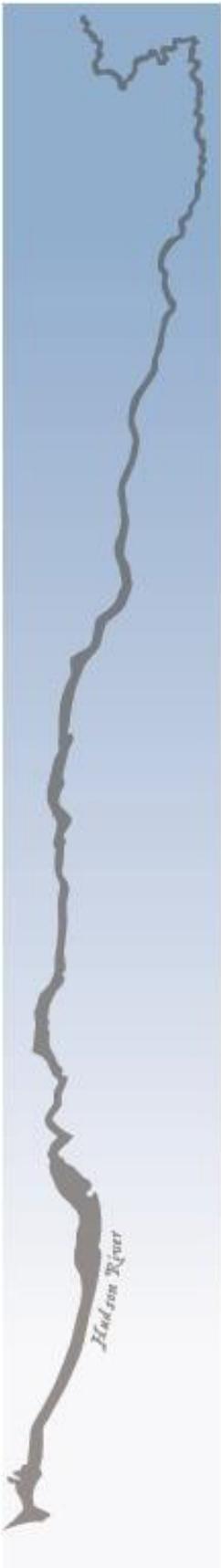
1. ***Injury Determination*** involves the Trustees' determination of whether injury has occurred as a result of the release. For each category of natural resources, such as surface water, groundwater, air, geological, and biological resources (e.g., fish), the DOI regulations define "injury" and set forth criteria to determine whether injury has occurred. Once injury is established, Trustees establish the pathway of exposure connecting the release to the injured resource.

To date, Trustees have determined and documented injury for:

- Hudson River Fishery Resources: Fishery Closures and Consumption Restrictions (June 2001; April 2015)
- Hudson River Navigation (July 2006)
- Hudson River Resident Waterfowl (August 2013)
- Hudson River Groundwater (August 2015)
- Hudson River Surface Water Resources (December 2008; January 2018)

2. ***Injury Quantification*** involves the Trustees' determination of the nature, scope, and extent of injury. During this step, Trustees consider the reduction in the quality and quantity of services provided by the injured resources, and estimate such reduction in services resulting from the release.





3. **Damage Determination** involves Trustees estimating the monetary damages to be sought in compensation for the injury. Damages are measured in terms of the cost of restoration, rehabilitation, replacement, and/or acquisition of the equivalent of the injured resources and their services. Trustees can also include the interim losses, defined as the compensable value of services lost between the release of a hazardous substance and the onset of benefits connected to restoration projects.

As part of the process of Damage Determination, Trustees develop a **Restoration and Compensation Determination Plan (RCDP)**, which sets forth a reasonable number of possible restoration alternatives and selects the appropriate alternatives based on all relevant considerations, including:

- (1) Technical feasibility.
- (2) The relationship of the expected costs of the proposed actions to the expected benefits from the restoration, rehabilitation, replacement, and/or acquisition of equivalent resources.
- (3) Cost-effectiveness.
- (4) The results of any actual or planned response actions.
- (5) Potential for additional injury resulting from the proposed actions, including long-term and indirect impacts, to the injured resources or other resources.
- (6) The natural recovery period.
- (7) Ability of the resources to recover with or without alternative actions.
- (8) Potential effects of the action on human health and safety.
- (9) Consistency with relevant Federal, State, and tribal policies.
- (10) Compliance with applicable Federal, State, and tribal laws.

During the Damage Determination phase, Trustees use injury determination reports to inform the calculation of the restoration needed to compensate the public for this loss. Trustees publish the RCDP and seek public input and comment for a period of at least 30 days. After this three-part Assessment Phase, Trustees move on to the Post-Assessment Phase, the steps of which are also described within DOI Regulations.

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**Department of
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Conservation**