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 Trustees to conduct Natural Resource Damage Assessments (NRDA). Through CERCLA, Congress holds polluters responsible for cleaning up hazardous substances (EPA Superfund clean ups) and compensating the public for harm caused by these releases.

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 CERCLA NRDA regulations (43 C.F.R. Part 11), and to share relevant recently published documents with the public. 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 of the hazardous substance(s). For each category of natural resources, such as surface water, groundwater, air, geological, and biological resources (e.g., fish), the CERCLA NRDA 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 published the following injury determination documents:
   - 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 (September 2015)
   - Hudson River Surface Water Resources (December 2008; January 2018)
   - Hudson River Remedial Injury Determination (February 2021)

Among the scientific publications relevant to the Trustee’s injury determination process for specific resources are the following:

**Mink**: Dietary exposure of mink (Mustela vison) to fish from the upper Hudson River, New York, USA: effects on reproduction and offspring growth and mortality. *Environmental Toxicology and Chemistry* (April 2013)

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 resulting from the release. Injury quantification relies on site specific data, scientific studies and modeling to determine the amount of injury that has occurred in the past and is anticipated to occur in the future.

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 will develop a **Restoration and Compensation Determination Plan (RCDP)**, which sets forth a reasonable number of possible restoration alternatives, identifies the cost and benefit of these alternatives and selects the appropriate alternatives to compensate for each of the injured natural resources.

During the Damage Determination phase, Trustees use injury determination and quantification reports to inform the calculation of the restoration needed to compensate the public for the loss of resources and their services. Trustees publish the RCDP and seek public 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 the CERCLA NRDA Regulations.