CHAPTER 1: INTRODUCTION, PURPOSE AND NEED, AND PUBLIC PARTICIPATION 1
1.1 Introduction 1
1.2 Overview of the Oil Pollution Act and the National Environmental Policy Act 2
1.2.1 The Oil Pollution Act and Designation of Trustees 2
1.2.2 The National Environmental Policy Act 3
1.2.3 Compliance with Other Applicable Authorities 4
1.3 Natural Resource Damage Assessment Restoration Planning 5
1.3.1 Emergency Restoration 6
1.3.2 Gulf Spill NRDA Restoration Planning 6
1.3.3 Early Restoration 7
1.4 Early Restoration Purpose and Need 8
1.5 Proposed Actions 8
1.5.1 Intent of this Document 8
1.6 Early Restoration Programmatic Analyses 9
1.6.1 Background 9
1.6.2 Proposed Approach to Phased Early Restoration Planning and Tiered NEPA Analyses 9
1.6.3 Summary of Proposed Program Alternatives 9
1.7 Severability of Proposed Phase III Projects 10
1.8 Document Organization and Decisions to be Made 10
1.9 Public Review and Comment 11
1.10 Administrative Record 12
1.11 Milestones 13

CHAPTER 1: INTRODUCTION, PURPOSE AND NEED, AND PUBLIC PARTICIPATION

1.1 Introduction

On or about April 20, 2010, BP Exploration and Production Inc. (BP) was using Transocean's mobile offshore drilling unit Deepwater Horizon to drill a well in the Macondo prospect (Mississippi Canyon 252–MC252) when the well blew out, and the drilling unit exploded, caught fire and subsequently sank in the Gulf of Mexico (the Gulf). This incident resulted in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. Tragically, 11 workers were killed and 19 injured. The Deepwater Horizon oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days (hereafter referred to as "the Spill," which includes activities conducted in response to the spilled oil). In addition, well over one million gallons of dispersants[1] were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released to the environment as a result of the Spill.

The U.S. Coast Guard responded and directed federal efforts to contain and clean up the *Deepwater Horizon* oil spill. At one point nearly 50,000 responders were involved in cleanup activities in open water, beach and marsh habitats. The scope, nature and magnitude of the Spill caused impacts to coastal and oceanic ecosystems ranging from the deep ocean floor, through the oceanic water column, to the highly productive coastal habitats of the northern Gulf, including estuaries, shorelines and coastal marsh. Affected resources include ecologically, recreationally, and commercially important species and their habitats in the Gulf and along the coastal areas of Texas, Louisiana, Mississippi, Alabama, and Florida. These fish and wildlife species and their supporting habitats provide a number of important ecological and recreational use services.

State and Federal natural resource Trustees ("the Trustees"; see Section 1.2.1) are in the process of assessing and quantifying injuries to natural resources and services provided by those resources caused by the Spill (see Section 1.3). When completed, this process – known as Natural Resource Damage Assessment or "NRDA" – will guide the Trustees to the identification of restoration projects to compensate the public for those injuries (see Section 1.3.2). While the NRDA for the Spill is ongoing, the Trustees and BP have begun a process of "Early Restoration" (see Section 1.3.3) – whereby the Trustees begin to restore injured resources and services back to a baseline condition (the condition those resources would have been in but for the Spill) prior to the completion of the NRDA. To date, two Phases of Early Restoration have been implemented, which covered ten restoration projects with a total cost of approximately $71 million. Restoration Plans and assessments of environmental impacts were prepared for both (see Section 2.2). This document pertains to a third Phase of Early Restoration.

[1] Dispersants do not remove oil from the ocean. Rather, they are used to help break large globs of oil into smaller droplets that can more readily be dissolved in the water column.

The present document (Draft Phase III ERP/PEIS) serves as a Draft Programmatic Early Restoration Plan and Environmental Impact Statement and a Draft Phase III Early Restoration Plan and associated environmental reviews. As such, this document provides information and analysis concerning: (1) the programmatic approach proposed by the Trustees for continuing Early Restoration; and (2) 44 specific Early Restoration projects presently being proposed by the Trustees. This is a draft document, prepared jointly by the State and Federal Trustees, subject to public review and comment and subsequent revision and finalization by the Trustees. The remainder of this chapter provides additional background and contextual information relevant to document objectives, content and organization.

1.2 Overview of the Oil Pollution Act and the National Environmental Policy Act

1.2.1 The Oil Pollution Act and Designation of Trustees

The Oil Pollution Act (OPA) Title 33 United States Code (U.S.C.) § 2701 *et seq*., establishes a liability regime for oil spills into navigable waters or adjacent shorelines that injure or are likely to injure natural resources and services that those resources provide to the ecosystem or to humans. Pursuant to OPA, designated federal and state agencies, Indian tribes and foreign governments act as trustees on behalf of the public to assess the injuries and plan for restoration to compensate for those injuries. OPA further instructs the designated Trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship (hereafter collectively referred to as "restoration"). OPA defines "natural resources" to include land, fish, wildlife, biota, air, water, ground water, drinking water supplies and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the Exclusive Economic Zone), any State or local government or Indian tribe, or any foreign government (33 U.S.C. § 2701(20)). Regulations providing guidance to the Trustees on how to implement, in general, the NRDA and restoration processes are contained in Chapter 15 of the Code of Federal Regulations (C.F.R.), Part 990. Services (or natural resource services) mean the functions performed by a natural resource for the benefit of another natural resource and/or the public.

The Federal Trustees are designated pursuant to section 2706(b)(2) of OPA (33 U.S.C. 2706(b)(2)) and Executive Orders 12777 and 13626. The following federal agencies are the designated natural resource Trustees under OPA for this Spill:[2]

- The United States Department of the Interior (DOI), as represented by the National Park Service (NPS), United States Fish and Wildlife Service (FWS), and Bureau of Land Management;
- The National Oceanic and Atmospheric Administration (NOAA), on behalf of the United States Department of Commerce;
- The United States Department of Agriculture (USDA); and
- The United States Environmental Protection Agency (EPA).

[2] The U. S. Department of Defense is a trustee under OPA of natural resources at its Gulf Coast facilities potentially affected by the Spill but is not a member of the Trustee Council and did not participate in the preparation of this document.

State Trustees are designated by the Governors of each state pursuant to section 2706(b)(3) of OPA. The following state agencies are designated natural resources Trustees under OPA and are currently acting as Trustees for the Spill:

- Texas Parks and Wildlife Department (TPWD), Texas General Land Office (TGLO) and Texas Commission on Environmental Quality (TCEQ);
- The State of Louisiana's Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF) and Department of Natural Resources (LDNR);
- The State of Mississippi's Department of Environmental Quality (MDEQ);
- The State of Alabama's Department of Conservation and Natural Resources (ADCNR) and Geological Survey of Alabama (GSA); and
- The State of Florida's Department of Environmental Protection (FDEP) and Fish and Wildlife Conservation Commission (FWC).

In addition to acting as Trustees for this incident under OPA, the States of Louisiana, Mississippi, Alabama, Florida and Texas are also acting pursuant to their applicable state laws and authorities, including but not limited to:

- The Texas Oil Spill Prevention and Response Act, Tex. Nat. Res. Code, Chapter 40.01 et seq.;
- The Louisiana Oil Spill Prevention and Response Act of 1991, La. R.S. 30:2451 et seq., and accompanying regulations, La. Admin. Code 43:101 et seq.;
- The Mississippi Air and Water Pollution Control Law, Miss. Code Ann. §§ 49-17-1 through 49-17-43;
- Alabama Code §§ 9-2-1 et seq. and 9-4-1 et seq.;
- The Florida Pollutant Discharge Prevention and Removal Act, Fla. Statutes Section 376.011 et seq.

1.2.2 The National Environmental Policy Act

The regulations that guide natural resource damage assessments (NRDA) under OPA state that actions undertaken by Federal Trustees to restore natural resources or services under OPA are subject to the National Environmental Policy Act (NEPA) , 42 U.S.C. § 4321, *et seq*., and the regulations guiding its implementation at 40 C.F.R. Part 1500 (15 C.F.R. § 990.23). NEPA and its implementing regulations set forth a process of environmental impact analysis, documentation and public review for federal actions. NEPA provides a mandate and a framework for federal agencies to consider environmental effects of their proposed actions and to inform and involve the public in their environmental analysis and decision-making process. Preparation of an environmental impact statement (EIS) is required for a "major federal action significantly affecting the quality of the human environment" (42 U.S.C. § 4332(C)). This document includes both a programmatic NEPA analysis as well as project-specific analyses for the 44 projects proposed for Phase III Early Restoration.

A Federal agency may prepare a programmatic EIS (PEIS) to evaluate broad actions, including similar actions that share common timing and geography. (40 C.F.R. 1502.4(b); *see* Forty Most Asked Questions

Concerning CEQ's National Environmental Policy Act Regulations, 46 Fed. Reg. 18026 (1981)). When a federal agency prepares a PEIS, the agency may "tier" subsequent narrower environmental analyses on site specific plans or projects from the PEIS (40 C.F.R. 1502.4(b); 40 C.F.R. §1508.28). Federal agencies are encouraged to tier subsequent narrower analyses from a PEIS to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review. (40 C.F.R. § 1502.20). The draft PEIS (DPEIS) within this document evaluates a range of broad Early Restoration alternatives, and may permit tiering to subsequent narrower NEPA analyses for future Early Restoration plans. In addition, this DPEIS evaluates specific projects that the Trustees have proposed for implementation in Phase III of Early Restoration and that fall within the broad Early Restoration alternatives evaluated in this DPEIS.

The DOI is the lead federal agency for preparing the Draft Phase III ERP/PEIS, and has invited the co-Trustees (See Section 1.2.1 for list of designated co-Trustees) to act as cooperating agencies pursuant to NEPA (40 C.F.R. § 1508.5). These cooperating agencies intend to adopt this PEIS, once it is completed. In addition, the U.S. Army Corps of Engineers was invited to be a cooperating agency for the PEIS. This document is prepared in accordance with 40 C.F.R. § 1500-1508, "*CEQ's Regulations for Implementing NEPA*", DOI NEPA implementing regulations (43 C.F.R. § 46).

1.2.3 Compliance with Other Applicable Authorities[3]

In addition to the requirements of OPA and NEPA, requirements of other laws may apply to the Early Restoration planning or Early Restoration implementation. The Trustees will ensure compliance with authorities applicable to Early Restoration projects. Whether and to what extent an authority applies to a particular project depends on the specific characteristics of a particular project, among other things. For the proposed Phase III restoration projects, the subset of authorities listed below are the most commonly relevant:

- Endangered Species Act (16 U.S.C. §§ 1531 et seq.);
- National Historic Preservation Act (16 U.S.C. §§ 470 et seq.);
- Coastal Zone Management Act (16 U.S.C. §§ 1451-1464);
- Federal Water Pollution Control Act (Clean Water Act, 33 U.S.C. §§ 1251 et seq.);
- Clean Air Act (42 U.S.C. §§ 7401 et seq.);
- Migratory Bird Treaty Act (16 U.S.C. §§ 703-712);
- Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c);
- Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §§ 1801 et seq.); and
- Marine Mammal Protection Act (16 U.S.C. §§ 1361-1421h).

In addition, State Trustees will ensure compliance with applicable authorities in their individual states.

[3] Authorities may include federal statutes, regulations, executive orders, or regulatory guidance.

1.3 Natural Resource Damage Assessment Restoration Planning

Restoration activities are intended to restore or replace habitats, species, and services to their baseline condition (primary restoration) and to compensate the public for interim losses from the time natural resources are injured until they recover to baseline conditions (compensatory restoration). To meet these goals, the restoration activities need to produce benefits that are related, or have a nexus, to natural resources injured and service losses resulting from the Spill. To meet the NRDA regulations, Trustees must identify a reasonable range of restoration alternatives, evaluate and select the preferred alternative(s), and develop a Draft and Final Restoration Plan.

RESTORATION TERMS DEFINED

Restoration: Any action that restores, rehabilitates, replaces, or acquires the equivalent of the injured natural resources.

Baseline: The condition of the natural resources and services that would have existed had the incident not occurred

Primary Restoration: Any action, including natural recovery, that returns injured natural resources and services to baseline.

Compensatory Restoration: Any action taken to compensate the public for interim losses of natural resources and services from the date of injury until recovery.

Natural Resource Services: The functions performed by a natural resource for the benefit of another natural resource (ecological services) and/or the public (including recreational services).

Natural resource services include the ecological and recreational services that natural resources provide. Examples of ecological services include nutrient cycling, food production for other species, habitat provision, and other services that natural resources provide for each other. Recreational use services include (but are not limited to) recreational activities that make 'direct' use of natural resources (e.g., boating, nature photography, education, fishing, swimming, hiking, etc.).[4] For the purposes of this document, the term "natural resource services" includes ecological and recreational use services.

NRDA restoration planning is designed to evaluate potential injuries to natural resources and natural resource services; to use that information to determine whether and to what extent restoration is needed; to identify potential restoration actions to address that need; and to provide the public with an opportunity to review and comment on the proposed restoration alternatives. Restoration planning has two basic components: (1) injury assessment and (2) restoration selection. The goal of injury assessment is to determine the nature and extent of injuries to natural resources and services. The goal of restoration selection is to evaluate the need for and type of

[4] Natural resources can provide a variety of "direct" and "indirect" services to the public. "Indirect" services to the public can be seen, for example, in the value the public holds for natural resources independent of their own use of such resources (e.g., by contributing to the protection of natural resources that they may not directly 'use' but want to preserve for future generations). For the purposes of this document, the Trustees focus on the recreational service 'subset' of human use services. The Trustees reserve the right to seek compensation for all human use impacts arising from the Spill, consistent with OPA and OPA NRDA regulations.

restoration required based on the injury assessment. To meet the NRDA regulations, Trustees must identify a reasonable range of restoration alternatives, evaluate and select the preferred alternative(s), and develop a Draft (for public comment) and Final Restoration Plan; further, each restoration alternative considered must address specific injuries associated with the incident. Ultimately, Trustees seek to implement restoration projects expected to fully compensate the public for losses of natural resources and services resulting from the Spill.

Given its expansive geographic scale and complexity, the *Deepwater Horizon* NRDA process may continue for several more years. As a result, the Trustees initiated the restoration and planning efforts described below to accelerate restoration in the Gulf, even while injury assessment activities are ongoing. The Early Restoration projects proposed in this Draft Phase III ERP/PEIS are not intended to fully compensate the public for injuries caused by the Spill. Additional restoration actions will be required.

1.3.1 Emergency Restoration

Under OPA, Trustees may take emergency restoration actions before completing the NRDA process in order to minimize continuing, or prevent additional, injury as long as the actions are feasible and the costs of the actions are not unreasonable.

The Trustees collectively implemented three emergency restoration projects in response to the Spill, addressing submerged aquatic vegetation (SAV), waterfowl and shorebirds, and sea turtles. The SAV project was implemented to prevent additional injury by restoring SAV beds damaged by propeller scarring and other response vessel impacts. The waterfowl habitat project provided alternative wetland habitat in Mississippi for waterfowl and shorebirds that might otherwise winter in oil-affected habitats. The sea turtle project was completed to improve the nesting and hatching success of endangered sea turtles on the Texas coast, including Padre Island National Seashore. Some Trustees also independently implemented additional emergency restoration actions.

1.3.2 Gulf Spill NRDA Restoration Planning

In February 2011, in accordance with 15 C.F.R. § 990.14(d) and State authorities, the Trustees issued a Notice of Intent to begin restoration scoping and to prepare a "Gulf Spill Restoration Planning PEIS." That NOI requested public input to identify and evaluate a range of restoration types that could be used to fully compensate the public for the environmental and recreational use damages caused by the Spill, as well as to develop procedures for the selection and implementation of restoration projects that will compensate the public for the natural resource damages caused by the Oil Spill. The Trustees invited the public to participate in this restoration and PEIS scoping as part of the Damage Assessment and Restoration Plan (DARP) effort for the Spill before BP provided Early Restoration funding. As part of the scoping process, the Trustees hosted public meetings across all the Gulf States during Spring 2011.

The Notice of Intent initiating scoping for the DARP and supporting PEIS can be viewed at: http://www.gulfspillrestoration.noaa.gov/wp-content/uploads/2011/02/PEIS-NOI_signed.pdf. The restoration planning and PEIS referenced in that NOI are specific to the ultimate presentation of a

natural resource damage claim for this Spill, and draft documents are continuing to be prepared separately from, but will account for, Early Restoration plans.

Public input from this 2011 scoping process, and similar exercises conducted by individual Trustees, were also considered in the scoping of this Draft Phase III ERP/PEIS.

1.3.3 Early Restoration

In April 2011, the Trustees entered into an agreement under which BP, a responsible party[5], agreed to provide up to $1 billion toward Early Restoration projects in the Gulf to address injuries to natural resources caused by the Spill. This Early Restoration agreement, entitled "Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill" (Framework Agreement), is intended to facilitate and expedite restoration in the Gulf in advance of the completion of the NRDA process. The Framework Agreement provides a mechanism through which the Trustees and BP can work together "to commence implementation of Early Restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable" prior to completion of the NRDA process or full resolution of the Trustees' natural resource damage claims (http://www.restorethegulf.gov/sites/default/files/documents/pdf/framework-for-early-restoration-04212011.pdf).

The Trustees previously selected 10 Early Restoration projects for implementation, including eight projects documented in the April 2012 final "*Deepwater Horizon* Oil Spill Phase I Early Restoration Plan and Environmental Assessment" and two projects documented in the December 2012 final "*Deepwater Horizon* Oil Spill Phase II Early Restoration Plan and Environmental Review." This Draft Phase III ERP/PEIS proposes additional Early Restoration projects across the Gulf.

The Early Restoration planning process is both part of the NRDA and the product of a partial, interim settlement with BP. Through Early Restoration , the Trustees seek to begin restoring the natural resources and natural resource services that were injured or lost because of the Oil Spill sooner than would be possible if restoration had to await a full NRD settlement or a court decision on the Trustees' NRD claims. The $1 billion that BP agreed to make available under the Framework Agreement provides an opportunity for progress towards on-the-ground restoration while the steps needed to determine the full and final tally of NRD unfold.

Practical factors necessarily affect the planning and selection of Early Restoration projects and this Draft Phase III ERP/PEIS. First, under the Framework Agreement, no proposed Early Restoration project will be funded unless all of the Trustees, the U.S. Department of Justice, and BP agree on, among other things, the amount of funding to be provided by BP and the "NRD Offsets" – the benefits expected from the project stated in either units of ecological service or monetary terms – that will be applied to reduce BP's NRD liability. Although every project proposed in the Draft Phase III ERP was sponsored from the

[5] The *responsible party* of an incident is the person, business, or entity that has been identified as owning the vessel or facility that caused the spill.

start by one or more State or Federal Trustee and each must be approved by all of the Trustees before it can proceed to implementation, the need for agreement with BP over funding and Offsets influences which projects, among all the alternatives from which the Trustees may choose, can proceed at the Early Restoration stage.

Second, because the NRDA is still a work in progress, it is impossible to say with reasonable certainty how much more restoration, beyond the current proposals, will be needed overall or in each potential project category to fully compensate for the effects of the Oil Spill on natural resources and natural resource services. The Early Restoration process is not intended to accomplish full restoration, however, and the Trustees do not view inaction on restoration as the right response to the present uncertainty.[6] An accounting of whether the restoration actions proposed by the Trustees adequately address all categories of natural resource injury and service losses must await completion of the NRDA and must consider both the Early Restoration projects and the final, comprehensive damages assessment and restoration plan.

1.4 Early Restoration Purpose and Need

For the purpose of accelerating meaningful restoration of injured natural resources and their services resulting from the Spill, the Trustees propose to continue implementation of Early Restoration in accordance with the Oil Pollution Act (OPA) and using funds made available in the Framework Agreement. In order to accelerate meaningful restoration under OPA, the Trustees need to identify restoration that contributes to making the environment and the public whole for injury to or loss of natural resources and services resulting from the Spill. In addition to the Phase I and II early restoration projects totaling approximately $71 million, the Trustees may implement up to $929 million in appropriate restoration projects via remaining funds made available by the Framework Agreement, of which $627 million is proposed in the Phase III component of this plan. Early restoration is being initiated prior to completion of the full natural resources damage assessment, and is not intended to fully address all injuries caused by the Spill.

1.5 Proposed Actions

To meet this purpose and need, the Trustees propose to adopt an Early Restoration program, including appropriate Early Restoration project types. In addition, consistent with the preferred programmatic alternative, the Trustees are proposing 44 specific projects for implementation in Phase III of Early Restoration.

1.5.1 Intent of this Document

The Trustees have prepared this Draft ERP/PEIS to evaluate the effectiveness and environmental consequences of Early Restoration project types that would meet this purpose and need, including analysis of specific proposed Early Restoration projects. The Trustees' process for identifying potential Phase III projects is described and proposed to continue for any future phases of Early Restoration.

[6] The Phase III ERP will not exhaust potential Early Restoration funding. If all proposed Phase III projects go forward, there will still be approximately $303 million in Early Restoration funding not yet allocated to projects.

1.6 Early Restoration Programmatic Analyses

1.6.1 Background

The proposed action includes development and evaluation of a proposed programmatic Early Restoration plan to guide the development of Early Restoration projects. This programmatic approach assists the Trustees and the public in evaluation of proposed Phase III projects and assists with development and evaluation of future Early Restoration projects. This section provides background on the Trustees' programmatic approaches to Early Restoration planning and supporting NEPA analyses.

Phase I and Phase II restoration alternatives selected by the Trustees identified ten restoration projects with a total cost of approximately $71 million. In the programmatic components of this Draft ERP/PEIS, the Trustees are proposing to continue implementing Early Restoration, including 44 additional projects proposed in Phase III. Together, the three Phases of Early Restoration would represent 54 projects costing about $700 M. Given the potential magnitude and breadth of Early Restoration, the Trustees elected to prepare a Programmatic Early Restoration Plan to analyze alternative approaches to continuing Early Restoration and to consistently guide remaining Early Restoration decisions.

Similarly, to allow for a better analysis of cumulative impacts of potential actions, the Trustees elected to prepare a programmatic EIS to support analysis of the environmental consequences of a Programmatic ERP and to consider the multiple related actions that may occur as a result of Early Restoration. This Programmatic ERP and PEIS inform the development of proposed Early Restoration projects for the potential use of the remaining funds available for Early Restoration.

1.6.2 Proposed Approach to Phased Early Restoration Planning and Tiered NEPA Analyses

Programmatic analyses can streamline Early Restoration by reducing or eliminating duplicative documentation at the project level, and focusing project analyses on appropriate, specific issues rather than broad, programmatic issues. Provided that: (1) proposed projects are consistent with the ultimately selected programmatic ERP, and (2) the nature of the environmental consequences are within the range considered in this PEIS, the Trustees propose to prepare more narrowed restoration plans to analyze individual/groups of projects under OPA supported by a NEPA analysis tiered to this PEIS. The programmatic analyses presented here allow the project-specific analyses in Phase III (see chapters 8-12) and any future proposed Early Restoration phases to focus on the critical site specific, area specific, or other specific issues. Thus, environmental analyses of future Early Restoration plans would be tiered (40 C.F.R. § 1508.28) from the PEIS presented in this document.

Public involvement is an important component of OPA and NEPA, and public involvement will continue to be an essential component of subsequent, more specific Early Restoration plan development and supporting NEPA analysis. OPA (U.S.C. § 2706(c) (5)) requires that restoration plans be developed and implemented only after adequate public notice and consideration of all public comments.

1.6.3 Summary of Proposed Program Alternatives

As described in Chapter 5, the Trustees develop and evaluate four programmatic alternatives in this document.

- Alternative 1: No Action (No Additional Early Restoration at this time);
- Alternative 2: Contribute to Restoring Habitats and Living Coastal and Marine Resources;
- Alternative 3: Contribute to Providing and Enhancing Recreational Opportunities; and
- Alternative 4 (Preferred Alternative): Contribute to Restoring Habitats, Living Coastal and Marine Resources, and Recreational Opportunities.

Each programmatic alternative includes a set of potential project types. Proposed Phase III Early Restoration projects are organized under appropriate project types within the programmatic alternatives and are evaluated in Chapters 8-12.

1.7 Severability of Proposed Phase III Projects

In the Draft Phase III ERP/PEIS, the Trustees propose 44 specific Early Restoration projects expected to cost approximately $627 million for consideration along with a broader, programmatic plan and PEIS that encompass not only the proposed Phase III projects but also the remainder of the Early Restoration process. In general, the proposed Phase III projects presented in this Draft Phase III ERP/PEIS are independent of each other and may be selected independently in the Final Phase III ERP/PEIS. A decision not to include one or more of the proposed projects in the Final Phase III ERP/PEIS should not affect either the programmatic elements of the plan or the Trustees' selection of the remaining Phase III Early Restoration projects.

1.8 Document Organization and Decisions to be Made

Consistent with the purpose and need and proposed actions identified above, this Draft Phase III ERP/PEIS is divided into the following chapters:

- **Chapter 1 (Introduction, Purpose and Need, and Public Participation)**: Introductory information and context for this document;
- **Chapter 2 (Early Restoration Process and Status)**: Background, process and status information for Early Restoration efforts to date;
- **Chapter 3 (Affected Environment)**: Information describing the affected environment within which Early Restoration activities are expected to take place;
- **Chapter 4 (The *Deepwater Horizon* Oil Spill Natural Resource Injury Assessment)**: A summary of the status of *Deepwater Horizon* Oil Spill Natural Resource Injury Assessment efforts;
- **Chapter 5 (The Proposed Early Restoration Programmatic Plan: Development and Evaluation of Alternatives):** Descriptions of Early Restoration programmatic alternatives considered by the Trustees, including a "No Action" alternative and the alternative proposed, and identification of a preferred alternative;
- **Chapter 6 (Environmental Consequences of Alternatives)**: An evaluation of the expected environmental consequences of the Early Restoration programmatic alternatives, including their cumulative impacts;
- **Chapter 7 (Introduction to Proposed Phase III Early Restoration Projects)**: Identifies proposed projects and provides brief, summary information about them;

- **Chapters 8-12 (Evaluation of Proposed Phase III Restoration Projects: [State]:** OPA and NEPA analyses related to the 44 specific projects proposed by the Trustees for implementation in Phase III of Early Restoration, including a discussion of cumulative impacts. Chapters 8, 9, 10, 11 and 12 provide this information for proposed projects in Texas, Louisiana, Mississippi, Alabama, and Florida, respectively.

This document is intended to provide the public with information and analysis needed to enable meaningful review and comment on the Trustees' proposal to proceed with (1) identifying a preferred Early Restoration program; and (2) selection and implementation of up to 44 individual proposed Phase III Early Restoration projects. The public review and comment process is described in the subsection below. Ultimately, this document and the corresponding public comment are intended to inform the Trustees' selection of an Early Restoration programmatic alternative as well as individual Early Restoration projects.

The public, government agencies, and other entities have identified and continue to identify a large number of potential restoration projects for consideration during the restoration planning process. In identifying which projects to propose for Phase III of Early Restoration, the Trustees considered the purpose and need, potential impacts to the environment, criteria presented and referenced in Chapter 2 and other portions of this document, as well as public input as they evaluated individual projects for inclusion in Phase III of Early Restoration. Projects not identified for inclusion in the Final Phase III and programmatic ERP/PEIS may continue to be considered for inclusion in future restoration plans.

1.9 Public Review and Comment

Public input is an integral part of NEPA, OPA and the Spill restoration planning effort. The purpose of public review is to facilitate public discussion regarding the proposed programmatic approach to Early Restoration, restoration alternatives, and proposed projects; allow the Trustees to solicit and consider public comment; and ensure that final plans address relevant issues.

On June 4, 2013 the Trustees published a Notice of Intent to Prepare a Programmatic Environmental Impact Statement for a Phase III Early Restoration Plan and Early Restoration Project Types, and to Conduct Scoping Meetings (FWS-R4-FHC-2013-N108; [FVHC98130406900-XXX-FF04G01000]). That Notice clarified the Trustees' intent to prepare a PEIS for Early Restoration under NEPA to evaluate the environmental consequences of Early Restoration project types, as well as to evaluate specific Early Restoration projects to be proposed for Phase III. In addition, the Federal Trustees clarified their intent to evaluate Early Restoration project types programmatically in the PEIS to allow for a better analysis of cumulative effects of Early Restoration and to support tiering of NEPA analyses for future Early Restoration plans to the PEIS, where appropriate. The public comment period ended on August 2, 2013. Public meetings were held as listed below:

- June 24, 2013: Galveston, Texas;
- June 27, 2013: Mobile, Alabama;
- July 16, 2013: Long Beach, Mississippi;
- July 18, 2013: Houma, Louisiana;

- July 23, 2013: Washington, DC; and
- July 25, 2013: Pensacola, Florida

The Trustees' summary of comments received in response to the notice will be available at the Administrative Record Index, http://www.doi.gov/deepwaterhorizon/adminrecord/index.cfm. The Trustees carefully reviewed these comments in identifying the alternatives to be considered in this PEIS and the project types to be included under each alternative (Chapter 5).

The public is encouraged to review and comment on this document. The deadline for submitting written comments on the document is specified in public notices placed in the Federal Register. Public comments will be considered by the Trustees prior to document finalization. Comments on the document can be submitted during the comment period by one of following methods:

- Via the Web: http://www.gulfspillrestoration.noaa.gov

- To submit hard copy comments, write: U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345.

Please note that if you include your address, phone number, email address, or other personal identifying information in your comment, your entire comment, including your personal identifying information, could be made publicly available.

The Trustees will hold a series of public meetings to facilitate the public review and comment process for the proposed Early Restoration programmatic approach and proposed Phase III projects. Locations, dates, and times will be identified in a cover letter accompanying this document and will be publicized, including in a Federal Register notice announcing release of this document. After the close of the public comment period, the Trustees will consider all input received during the public comment period, and proceed to finalize this Draft Phase III ERP/PEIS, as may be appropriate. A summary of comments received and the Trustees' responses will be included in the Final Phase III ERP/PEIS. Once the Draft Phase III ERP/PEIS is finalized, approved projects will proceed to implementation, pending compliance with all applicable state and federal laws.

1.10 Administrative Record

Pursuant to 15 C.F.R. § 990.45, the Trustees opened a publicly available Administrative Record for the NRDA for the Spill, including restoration planning activities, concurrently with the publication of the Notice of Intent to Conduct Restoration Planning. DOI is the lead Federal Trustee for maintaining the Administrative Record, which can be found at http://www.doi.gov/deepwaterhorizon/adminrecord.[7] Information about project implementation will be provided to the public through the Administrative Record and other outreach efforts, including http://www.gulfspillrestoration.noaa.gov.

[7] Additionally, Louisiana is also maintaining an Administrative Record (see http://losco-dwh.com/AdminRecord.aspx) in accordance with state regulations (La. Admin. Code 43:127).

1.11 Milestones

The following is a list of milestones that would occur prior to project implementation.

- Draft Phase III ERP/PEIS release for public review and comment
- Public comment period
- Public meetings (occurring during the public comment period) to solicit input
- Review public comments
- Consider and prepare responses to comments
- Revise the Draft Phase III ERP/PEIS (as appropriate), including responses to comments
- Issue Final Phase III and ERP/PEIS
- Issue Record of Decision
- Filing Stipulation Agreements with the Court

Should future substantial changes or significant new circumstances arise, the Trustees would consider the need to supplement the programmatic analyses.