Environmental Review

This action changes the using agency of the restricted areas. There are no changes to the existing boundaries, altitudes, times of designation, or the activities conducted within the affected restricted areas. Accordingly, the FAA has determined that this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.51 [Amended]

2. § 73.51 is amended as follows:

* * * * *

R–5107B White Sands Missile Range, NM [Amended]

By removing the current ''Using agency. Deputy for Air Force, White Sands Missile Range, NM 88002,'' and substituting ''Using agency. Commanding General, White Sands Missile Range, NM.''

* * * * *

R–5107J White Sands Missile Range, NM [Amended]

By removing the current ''Using agency. Deputy for Air Force, White Sands Missile Range, NM 88002,'' and substituting ''Using agency. Commanding General, White Sands Missile Range, NM.''

* * * * *

R–5111D Elephant Butte, NM [Amended]

By removing the current ''Using agency. Deputy for United States Air Force, White Sands Missile Range, NM 88002,'' and substituting ''Using agency. Commanding General, White Sands Missile Range, NM.''

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Issued in Washington, DC, on October 29, 1997.

Reginald C. Matthews,
Acting Program Director for Air Traffic Airspace Management.
[FR Doc. 97–29574 Filed 11–7–97; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 11

RIN 1090–AA21 & 1090–AA23

Natural Resource Damage Assessments—Type A Procedures

AGENCY: Department of the Interior.
ACTION: Final rule: correcting amendments.

SUMMARY: On May 7, 1996, the Department of the Interior published a final rule establishing two simplified, or ''type A,'' procedures for assessing natural resource damages under the Comprehensive Environmental Response, Compensation, and Liability Act. 61 FR 20559. Those procedures incorporated two computer models. This rule makes several technical corrections to those models.

DATES: This final rule is effective November 10, 1997. The incorporation by reference listed in this rule was approved by the Director of the Federal Register and is effective November 10, 1997.

FOR FURTHER INFORMATION CONTACT: David Rosenberger at (202) 208–3301. Interested parties may obtain copies of the computer models and supporting documentation free of charge from the Department through February 27, 1998, and thereafter for a fee from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, ph: (703) 487–4650. The models are also on the Internet at http://www.doi.gov/oepc/oepcbb.html.

SUPPLEMENTARY INFORMATION:

Background

The Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 *et seq.*) (CERCLA) provides that certain categories of persons, known as potentially responsible parties (PRPs), are liable for natural resource damages resulting from a release of a hazardous substance. CERCLA sec. 107(a). Natural resource damages are monetary compensation for injury to, destruction of, or loss of natural resources. CERCLA sec. 107(a)(4)(C). Only those Federal, State, and Indian tribe officials designated as natural resource trustees may recover natural resource damages. CERCLA requires the President to promulgate regulations for the assessment of natural resource damages resulting from hazardous substance releases. CERCLA sec. 301(c). The President delegated the responsibility for promulgating these regulations to the Department. E.O. 12316, as amended by E.O. 12580. CERCLA requires that the natural resource damage assessment regulations include two types of assessment procedures. ''Type A'' procedures are ''standard procedures for simplified assessments requiring minimal field observation.'' CERCLA sec. 301(c)(2)(A). ''Type B'' procedures are ''alternative protocols for conducting assessments in individual cases.'' CERCLA sec. 301(c)(2)(B). Both types of procedures are codified at 43 CFR part 11.

On May 7, 1996, the Department published a final rule that revised an existing type A procedure for assessing natural resource damages from minor releases in coastal areas and established an additional type A procedure for minor releases in the Great Lakes. Trustees obtain a rebuttable presumption in litigation for damages, up to $100,000, calculated in accordance with those procedures. Both procedures incorporate computer models. The type A procedure for coastal areas incorporates the Natural Resource Damage Assessment Model for Coastal and Marine Environments (NRDAM/CME) and the type A procedure for Great Lakes incorporates the Natural Resource Damage Assessment Model for Great Lakes Environments (NRDAM/GLE). The regulations identify the conditions under which trustees may use the models. 43 CFR 11.34.

Trustees must supply a number of data inputs to operate the NRDAM/CME and the NRDAM/GLE. After trustees supply the data inputs, the models themselves perform the remaining calculations necessary to establish if there has been an injury, quantify the extent of injury, estimate the cost of restoration actions, and value economic losses.

Programming Errors

The May 7, 1996, rule incorporated Version 2.4 of the NRDAM/CME and Version 1.4 of the NRDAM/GLE. Since the publication of that rule, the Department has identified six programming errors in those versions of the models.

First, the models were designed to include in the damage figure the cost of

restoring lost assimilative capacity, under certain circumstances. As stated in the preamble to the May 7, 1996, rule, the Department intended that the models would compute assimilative capacity restoration costs only when there are releases that generate economic damages related to mortality or loss of production. 61 FR at 20599. The Department has identified a programming error that, in some cases, allowed such costs to be incorporated into the tabulation of damages even when no economic damages were generated by the models. Currently, the models do not provide recovery for compensable value when the amount calculated is less than one dollar, but they still include restoration costs for lost assimilative capacity when the amount calculated is greater than zero but less than one dollar. The Department intended that compensable value must actually be generated and included in the tabulated damages (i.e., equal or exceed $1) before restoration costs for lost assimilative capacity would be included. The models' source codes have been corrected to conform with that intent.

Second, as stated in the preamble to the May 7, 1996, rule, the Department decided to delete all pure metals from the models' databases (61 FR 20591). Nevertheless, the models as issued still erroneously contained copper, mercury, and zinc in their databases. The models' databases have been corrected to conform with that decision.

Third, the Department has discovered an error in the NRDAM/CME's source code for indexing the sediment grid array, which causes the model to stop when it attempts to reference grid cell "100/100." The model's source code has been revised to correct this programming "bug."

Fourth, the Department has discovered an error in the source code of the NRDAM/CME for larval current transport in the longitudinal direction, resulting in an erroneous calculation of the location of larvae within the habitat grid. The model's source code has been revised to correct this programming "bug."

Fifth, the Department has discovered an error in the habitat grid editor for the NRDAM/CME. While this error is not in the model's source code for computation of damages, it could permit the NRDAM/CME's default habitats to accidentally be corrupted or lost by a user's attempt to output the data to an "ASCII" computer code file. This error has been corrected.

Sixth, although not a programming error, the Department has discovered that a reference cited in Volume I,

Section 4, of the NRDAM/CME Technical Document was omitted from the reference list at the end of the section, and has made the appropriate correction.

Finally, the Department has discovered an error in Volume IV, Part 2, Table IV.5.37 of the NRDAM/CME Technical Document. The table was erroneously printed twice at pages IV.5–46 through IV.5–47 and then again at pages IV.5–48 through IV.5–49. This typographical error has been corrected by removing pages IV.5–46 and IV.5–47 and inserting blank pages. Also, the wildlife abundances for willet, knots, sanderling, turnstones, plovers (both general and piping) were incorrectly listed twice in the April 1996, table. The second listing of abundances for these species appearing on page IV.5–49 of the April 1996, table were those contained in the public review draft of the NRDAM/CME. 59 FR 63300. The Department erroneously failed to delete those public review draft values when revised abundance values were added to the database as a result of public comments. 61 FR 20588. This resulted in an overestimate of abundance for willet, knots, sanderling, turnstones, plovers (both general and piping); and an underestimate of their wildlife nonconsumptive use value contained in Volume V, Table V.1.8 (wildlife category 28—Sandpipers, plovers) (See Volume I—Part 2, Section 8.4 of the NRDAM/CME Technical Document for an explination of the derrivation). The NRDAM/CME's database has been revised to correct this error.

Windows® Operating System

For the convenience of users of the NRDAM/CME and NRDAM/GLE models, the Department has also changed the software installation requirements to allow the models to run under the Windows 95® and Windows NT® operating systems, as well as the current DOS operating system. This is a non-substantive change, which does not require a change to the source codes and has no effect on the computations performed by the models.

Modifications to the Models

The Department has developed new versions of the models, which correct the programming and data base errors described above and make the additional change to allow use of the models under the Windows 95® and Windows NT® operating systems. This rule replaces the old versions with the new versions: NRDAM/CME Version 2.4 is being replaced with NRDAM/CME Version 2.5, and NRDAM/GLE Version 1.4 is being replaced with NRDAM/GLE

Version 1.5. In order to obtain the rebuttable presumption, trustees must now use the new versions of the models.

The Department has also made conforming changes in the NRDAM/CME and NRDAM/GLE Technical Documentation as follows:

NRDAM/CME Technical Documents. (1) The model version number has been changed in all places it appears; (2) The pure metals copper, mercury, and zinc have been deleted from Volume III, Table II.2.1; (3) The case example contained in Volume II, Appendix D, has been replaced to reflect the revised version number and source code corrections; (4) A reference cited in Volume I, Section 4, has been added to the reference list at the end of the section; (5) Volume VI, containing the source code, has been revised to make the necessary corrections; and (6) Volume IV, Part 2 has been revised to correct the wildlife abundances; and Volume V, Table V.1.8 revised to correct the population number and wildlife nonconsumptive use value for wildlife category 28—Sandpipers, plovers.

NRDAM/GLE Technical Documents. (1) The model version number has been changed in all places it appears; (2) The pure metals copper, mercury, and zinc have been deleted from Volume III, Table II.2.1; (3) The case example contained in Volume II, Appendix A, has been replaced to reflect the revised version number and source code corrections; (4) A reference cited in Volume I, Section 4, has been added to the reference list at the end of the section; and (5) Volume VI, containing the source code, has been revised to make the necessary corrections.

Issuance of a Final Rule

This rule does not modify any substantive decisions the Department made in the May 7, 1996 rulemaking. The technical corrections described in this notice are necessary to ensure that NRDAM/CME and NRDAM/GLE conform to the descriptions and decisions stated in the May 7, 1996, preamble and in the supporting technical documentation for the models. The additional changes are also non-substantive in nature. Therefore, the Department finds that there is good cause under section 553(b)(3)(b) of the Administrative Procedure Act (5 U.S.C. 551 et seq.) to make these corrections and changes without first issuing a notice of proposed rulemaking. For the same reasons, the Department finds that there is good cause under section 553(d)(3) of the Administrative Procedure Act to make this final rule effective immediately.

List of Subjects in 43 CFR Part 11

Coastal zone, Environmental protection, Fish, Hazardous substances, Incorporation by reference, Indian lands, Marine resources, National forests, National parks, Natural resources, Public lands, Recreation areas, Seashores, Wildlife, Wildlife refuges.

For the reasons set out in the preamble, Title 43, Subtitle A of the Code of Federal Regulations is amended as follows:

PART 11—NATURAL RESOURCE DAMAGE ASSESSMENTS

1. The authority citation for Part 11 continues to read as follows:

Authority: 42 U.S.C. 9651(c), as amended.

Subpart A—Introduction

2. Section 11.18 is amended by revising paragraphs (a)(4) and (a)(5) to read as follows:

§ 11.18 Incorporation by reference.

(a) * * *

(4) The CERCLA Type A Natural Resource Damage Assessment Model for Coastal and Marine Environments, Technical Documentation, Volumes I–VI, dated April 1996, including Revision I dated October 1997, prepared for the U.S. Department of the Interior by Applied Science Associates, Inc., A.T. Kearney, Inc., and Hagler Bailly Consulting, Inc. (NRDAM/CME technical document). Interested parties may obtain a copy of this document from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; PB96–501788; ph: (703) 487–4650. Sections 11.34(a), (b), and (e), 11.35(a), 11.36(b), 11.40(a), and 11.42(a), and Appendix II refer to this document.

(5) The CERCLA Type A Natural Resource Damage Assessment Model for Great Lakes Environments, Technical Documentation, Volumes I–IV, dated April 1996, including Revision I dated October 1997, prepared for the U.S. Department of the Interior by Applied Science Associates, Inc., and Hagler Bailly Consulting, Inc. (NRDAM/GLE technical document). Interested parties may obtain a copy of this document from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; PB96–501770; ph: (703) 487–4650. Sections 11.34 (a), (b), and (e), 11.35(a), 11.36(b), 11.40(a), and 11.42(a), and Appendix III refer to this document.

* * * * *

Subpart C—Assessment Plan Phase

3. Section 11.33(a) is amended by revising the third sentence to read as follows:

§ 11.33 What types of assessment procedures are available?

* * * * *

(a) * * * There are two type A procedures: a procedure for coastal or marine environments, which incorporates the Natural Resource Damage Assessment Model for Coastal and Marine Environments, Version 2.5 (NRDAM/CME); and a procedure for Great Lakes environments, which incorporates the Natural Resource Damage Assessment Model for Great Lakes Environments, Version 1.5 (NRDAM/GLE).

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Subpart D—Type A Procedures

4. Section 11.40(a) is amended by revising the third and fifth sentences to read as follows:

§ 11.40 What are type A procedures?

(a) * * * The type A procedure for coastal and marine environments incorporates a computer model called the Natural Resource Damage Assessment Model for Coastal and Marine Environments Version 2.5 (NRDAM/CME). * * * The type A procedure for Great Lakes environments incorporates a computer model called the Natural Resource Damage Assessment Model for Great Lakes Environments Version 1.5 (NRDAM/GLE). * * *

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Dated: October 31, 1997.

Brooks B. Yeager,

Acting Assistant Secretary—Policy, Management, and Budget.

[FR Doc. 97–29386 Filed 11–7–97; 8:45 am]

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