

environments, lost wildlife viewing, resulting from population losses, by residents of local areas bordering the provinces in which the population losses occurred. [A province is one of the geographic areas delineated in Table 8.1, Volume I of the NRDAM/GLE technical document.];

(9) Lost beach visitation due to closure; and

(10) For the type A procedure for Great Lakes environments, lost boating due to closure.

(c) If the authorized official uses both type A and type B procedures, he or she must explain in the Assessment Plan how he or she intends to prevent double recovery.

(d) When the authorized official uses type B procedures for injuries not addressed in a type A procedure, he or she must follow all of subpart E (which contains standards for determining and quantifying injury as well as determining damages), § 11.31(c) (which addresses content of the Assessment Plan), and § 11.37 (which addresses confirmation of exposure). When the authorized official uses type B procedures for compensable values that are not included in a type A procedure but that result from injuries that are addressed in the type A procedure, he or she need not follow all of subpart E, § 11.31(c), and § 11.37. Instead, the authorized official may rely on the injury predictions of the type A procedure and simply use the valuation methodologies authorized by § 11.83(c) to calculate compensable value. When using valuation methodologies, the authorized official must comply with § 11.84.

[61 FR 20610, May 7, 1996]

§ 11.37 Must the authorized official confirm exposure before implementing the Assessment Plan?

(a) Before including any type B methodologies in the Assessment Plan, the authorized official must confirm that at least one of the natural resources identified as potentially injured in the preassessment screen has in fact been exposed to the released substance.

(b) *Procedures.* (1) Whenever possible, exposure shall be confirmed by using existing data, such as those collected for response actions by the OSC, or

other available studies or surveys of the assessment area.

(2) Where sampling has been done before the completion of the preassessment screen, chemical analyses of such samples may be performed to confirm that exposure has occurred. Such analyses shall be limited to the number and type required for confirmation of exposure.

(3) Where existing data are unavailable or insufficient to confirm exposure, one or more of the analytical methodologies provided in the Injury Determination phase may be used. The collection and analysis of new data shall be limited to that necessary to confirm exposure and shall not include testing for baseline levels or for injury, as those phrases are used in this part.

[51 FR 27725, Aug. 1, 1986. Redesignated and amended at 61 FR 20610, 20611, May 7, 1996]

§ 11.38 Assessment Plan—preliminary estimate of damages.

(a) *Requirement.* When performing a type B assessment pursuant to the requirements of subpart E of this part, the authorized official shall develop a preliminary estimate of: the anticipated costs of restoration, rehabilitation, replacement, and/or acquisition of equivalent resources for the injured natural resources; and the compensable value, as defined in § 11.83(c) of this part, of the injured natural resources, if the authorized official intends to include compensable value in the damage claim. This preliminary estimate is referred to as the preliminary estimate of damages. The authorized official shall use the guidance provided in this section, to the extent possible, to develop the preliminary estimate of damages.

(b) *Purpose.* The purpose of the preliminary estimate of damages is for reference in the scoping of the Assessment Plan to ensure that the choice of the scientific, cost estimating, and valuation methodologies expected to be used in the damage assessment fulfills the requirements of reasonable cost, as that term is used in this part. The authorized official will also use the preliminary estimate of damages in the