

BP Economic & Property Damages Settlement Class*

*No one should rely solely on the content of this Power Point Presentation to determine the eligibility of a Claimant, whether the Claimant meets the financial test for causation or the level of Compensation owed to the Claimant. This Power Point is a partial summary of the settlement and is intended to provide introductory information to lawyers and CPA's regarding the basic principles of the settlement and to provoke thought and discussion. All claimants, attorneys and accountants should read the Settlement Agreement and Orders of the Court in making any specific determinations or providing any individualized advice pertaining to the settlement, submission of or calculation of any claim. This presentation is not offered as legal advice.

Claims Administration

- Patrick Juneau – Court Appointed Claims Administrator
- Court Supervised Settlement Program open as of June 4, 2012
- File claims and obtain claim forms online at:
www.deepwaterhorizonsettlements.com

Gulf Coast Area





Industry Exclusions Are Generally Based on NAICS Codes

- North American Industry Classification System Code (NAICS Code)
- The Claims Administrator shall determine the appropriate industry designation based on certain factors, primarily the NAICS Code on 2010 business tax returns.
- Where excluded industries are not defined by NAICS Code in the Agreement, (i.e., Defense Contractors and Real Estate Developers), the Claims Administrator shall determine exclusion based on similar factors.

Excluded Industries

Businesses Excluded Entirely

- Oil and Gas Industry

Business Economic Loss Claims Excluded (but Coastal and Wetland Real Property Claims permitted)

- Banking; Funds, Financial Trusts, and Other Financial Vehicles; Gaming; Insurance; Defense Contractors; and Real Estate Developers



Moratoria Losses

- Business and Individual Economic Loss Claims Subject to Review for Potential “Moratoria Losses”
 - Claims by those in the Support Services to Oil and Gas Industry shall be routed to a team dedicated to the evaluation of economic loss claims for Moratoria Losses.

- Claims for recovery of “Moratoria Losses” are excluded from the Economic and Property Damages Settlement Class but are **expressly reserved**.

Claims Processing under Settlement Program

- Must file a Claim Form
 - Online submission preferred
- Documents and information with GCCF will be automatically transferred
- All payments under Settlement program are final payments with a release



Claims Processing under Settlement Program

- A claimant can file multiple claims
 - Once a Claimant receives a payment for a Claim, Claimant has 6 months to file all remaining claims
- Claims Program will expire by the later of:
 - 6 months after the Effective Date (final judgment and all appeals)
 - April 22, 2014

Administrator Duties – Claimant Friendly

- Claims Administrator has Obligations to Claimants under the Settlement Agreement:
- 4.3.7: The Settlement Program SHALL work with Class Members to facilitate assembly and submission of claim forms.
- 4.3.7: The Settlement Program **SHALL use its best efforts** to provide Class Members with assistance, information, opportunities and notice so that the Class Member has the best opportunity to be determined eligible for and receive the Settlement Payment(s) for which the Class Member is entitled

Administrator Duties – Maximize Compensation

- 4.3.8: The Claims Administrator SHALL evaluate and process the information in the Claim Form in order to produce **“the greatest Economic Damage Compensation Amount”** that such information allows
 - So, if a Claimant selects a Benchmark or Compensation period and a different Benchmark or Compensation Period provides a better result, the Claims Administrator shall apply the greater result

Administrator Duties – No Special Deals

- 4.4.7: The criteria, documentation, proof and Compensation Amount provisions of each of the Claims categories **shall apply equally to all Claimants** regardless whether they are proceeding individually, represented by others, or proceeding as an assignee of an individual Claim

Administrator Duties – GCCF Denials Fully and Fairly Considered

- 4.4.9: An Economic Class Member who had a claim with the GCCF that **was rejected or denied by the GCCF** for any reason shall be treated like any other Economic Class Member submitting a Claim to the Settlement Program. Specifically, **there shall be no negative inference or presumption of any kind as to the eligibility or right of any Economic Class Member to receive a Settlement Payment under the terms of the Settlement Agreement.**

Filing a Claim

- File online at www.deepwaterhorizoneconomicsettlements.com
- Claim Forms and Instructions for each claim type
- Video tutorials available for filing

Business Economic Losses

Business Economic Growth: Benefits

Options to qualify for benefits:

- ▣ Businesses in industries and geographic Zones most impacted by the DWH Spill are not required to present **any** evidence of causation.
- ▣ If meet financial test, eligible for compensation regardless of facts and circumstances

Business Economic Growth: Benefits

Wide range of options for other businesses to qualify for benefits:

- ❑ All other businesses in the class have five different options to recover DWH Spill related losses.
- ❑ Separate frameworks created for Start-Up Businesses and Failed Businesses.
- ❑ “Business” includes claims for corporations, partnerships and business income reported on 1040 Schedules C, E or F.

Tailored evaluation process to qualify for benefits.

- ❑ Businesses in industries and areas most directly effected either automatically qualify or have lower qualification standards.

Business Economic Growth: Benefits

Qualifying businesses receive compensation for **ALL LOSSES** regardless of actual facts and circumstances.

- ❑ All Zone A businesses and others with presumptions.
- ❑ All businesses qualifying using overall revenue trends.
- ❑ All other businesses can claim specific losses of contracts or reservations.

Business Economic Loss Claims: Documentation

Documents required are generally available in the normal course of business (though some claimant specific situations will require additional information). Claimants will generally need to provide:

- ❑ Completed Claim Form.
- ❑ Annual Income Tax Returns.
- ❑ Monthly and annual financial statements.
- ❑ Business structure and organization information.
- ❑ Sales or use tax returns and lodging tax returns (where applicable).
- ❑ Customer sales information (where applicable).
- ❑ Licensing information (where applicable).
- ❑ Other documents as necessary based on claim.

Overview

■ Zone A (Yellow)

- Causation
 - Presumed (All)
- Business economic loss calculation
 - Compensation for Business Economic Losses
 - Nuances for BEL for Start-up Businesses
 - Compensation for BEL for Failed Businesses
 - Compensation for BEL for Failed Start-up Businesses
- RTPs

■ Zone B (Purple)

- Causation
 - Presumed and Not Presumed Business Categories
 - Tourism, Seafood Distribution, Charter Boats presumed
- Business economic loss calculation (same as Zone A)
- RTPs

■ Zone C (Red)

- Causation
 - Presumed and Not Presumed Business Categories
 - Seafood Distribution, Charter Boats Presumed
- Business economic loss calculation (same as Zone A)
- RTPs

■ Zone D (Transparent)

- Causation
 - Presumed and Not Presumed Business Categories
 - Primary Seafood Distribution Presumed
- Business economic loss calculation (same as Zone A)
- RTPs

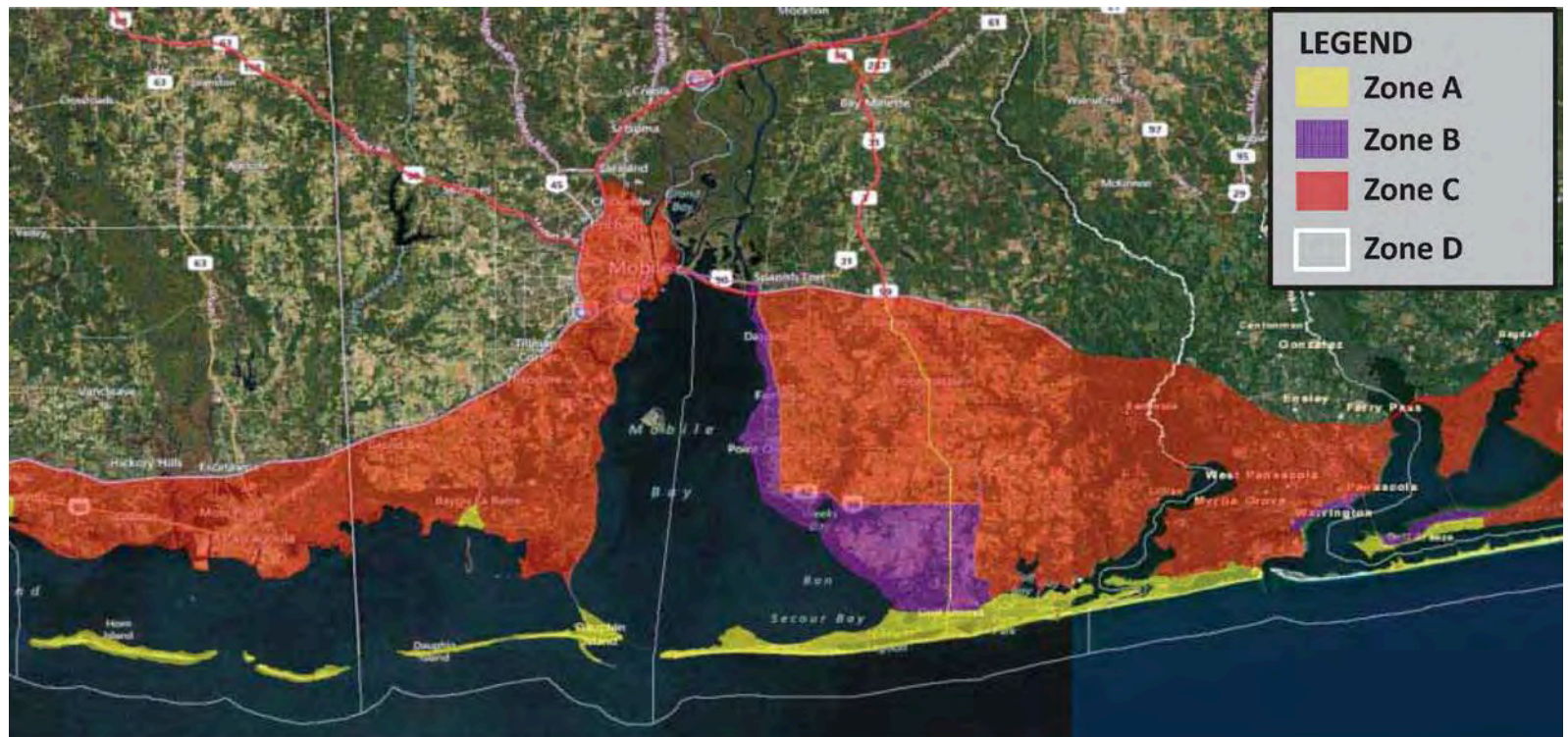
■ Other Causation Methods/Tests

■ Potential Issues

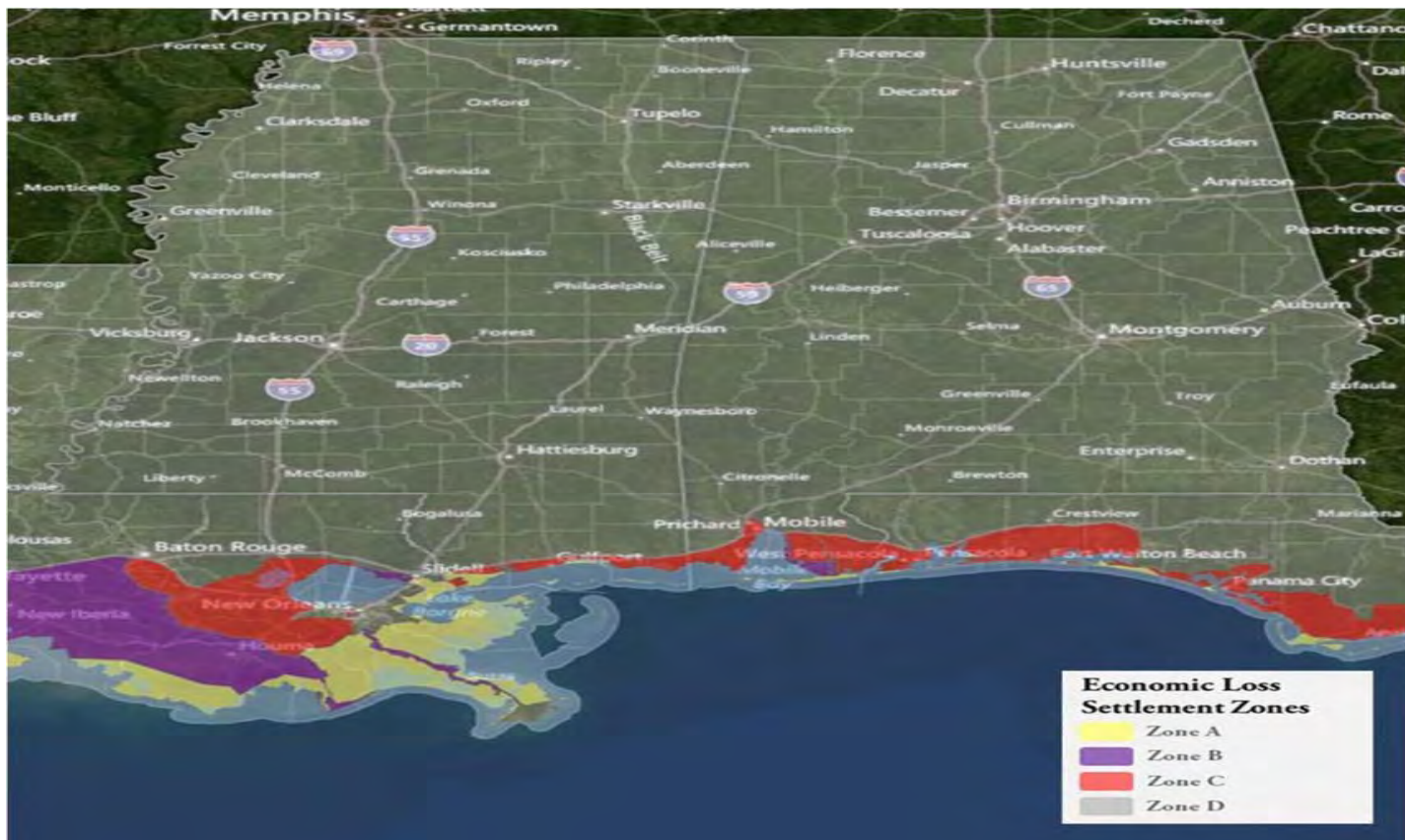
ECONOMIC LOSS ZONES



ECONOMIC LOSS - ALABAMA



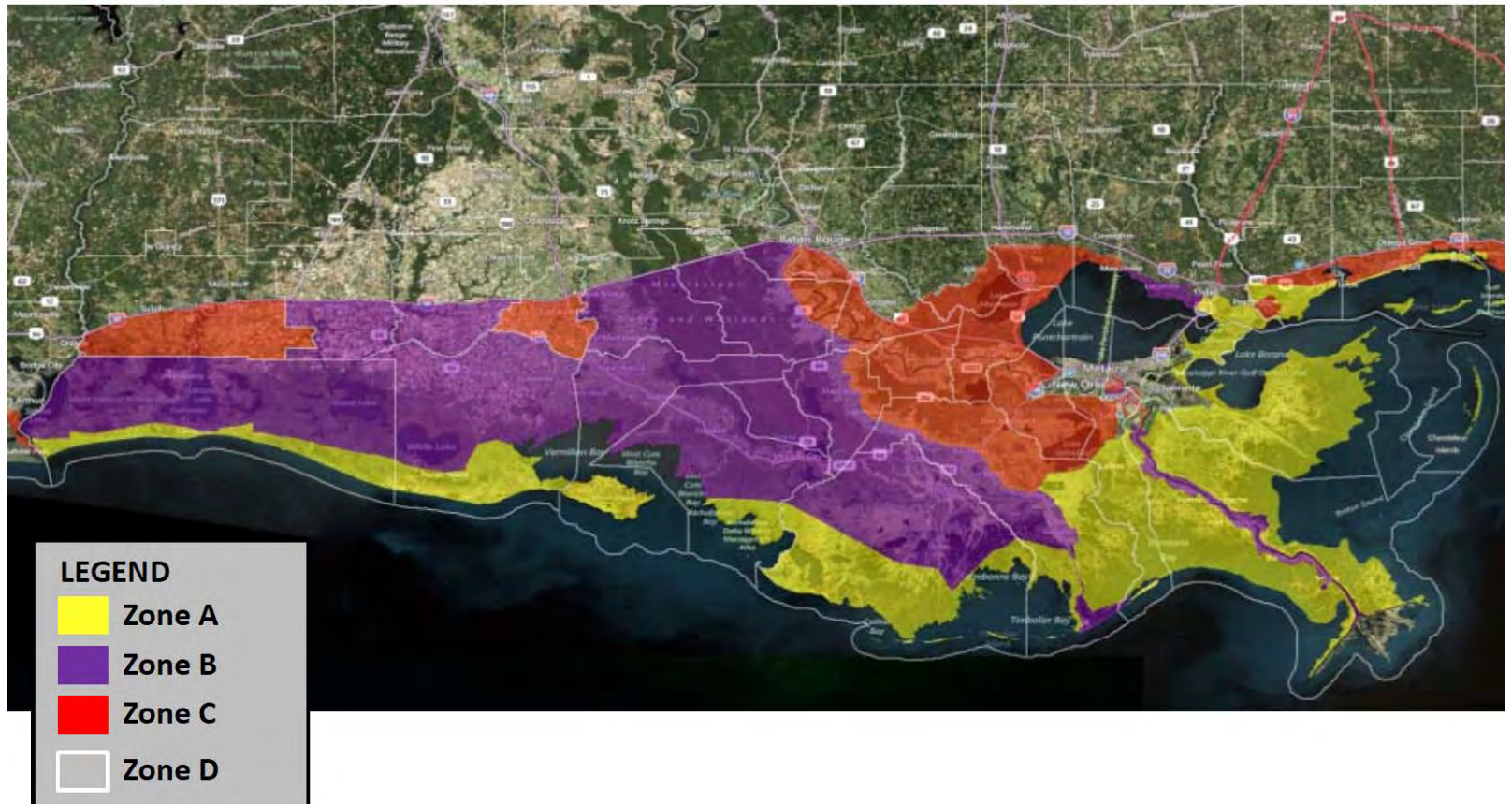
Economic Loss- AL, MS, West FL



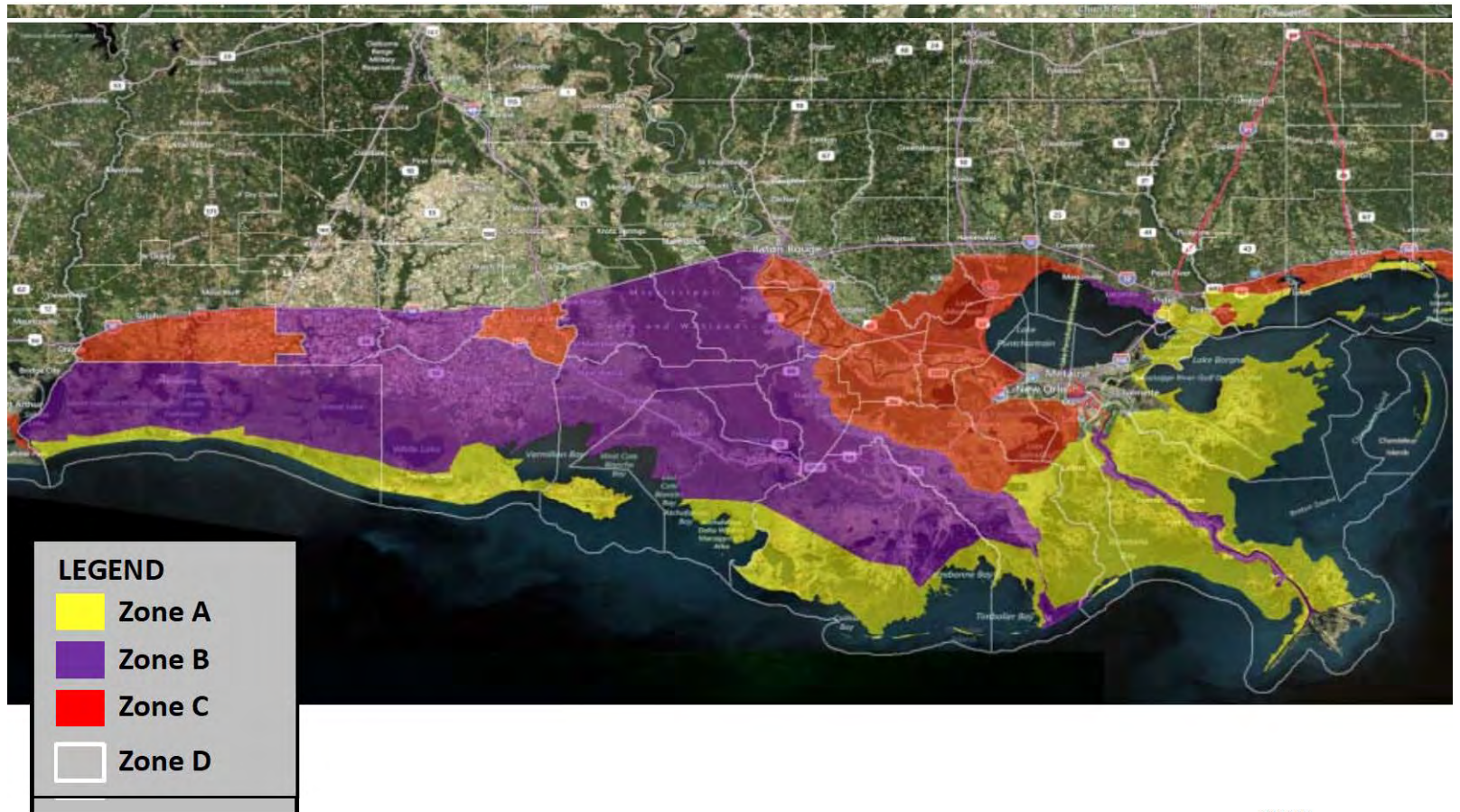
Economic Loss – Eastern FL



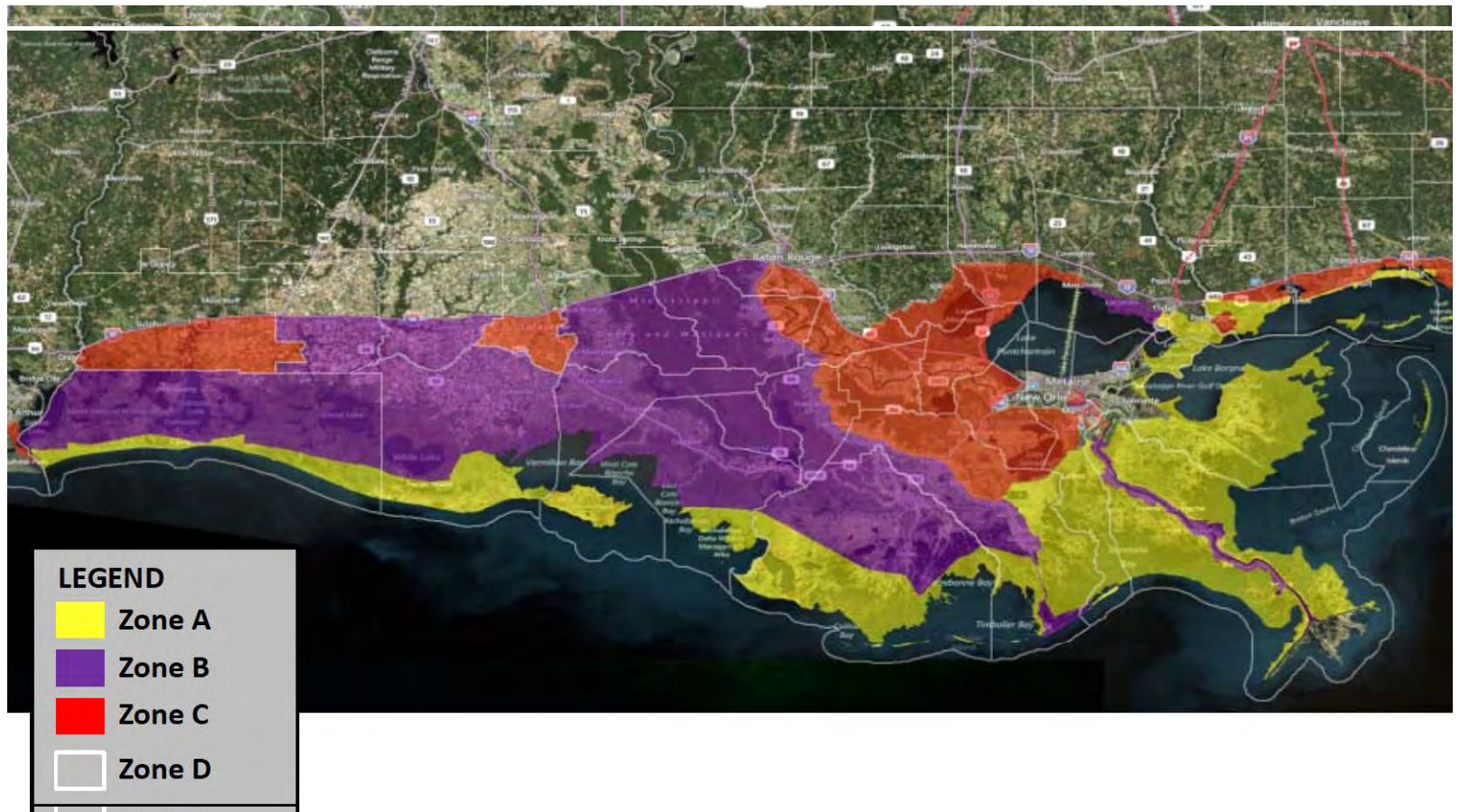
Economic Loss – South Louisiana



Economic Loss – SW Louisiana



Economic Loss – SE Louisiana



ECONOMIC LOSS - TEXAS



Causation and Compensation – General Concepts & Definitions

Business Economic Loss Claims: Causation

Many businesses receive full presumption that all post-DWH Spill 2010 losses were caused by the Spill regardless of specific circumstances:

- ❑ All businesses in Zone A.
- ❑ Tourism businesses in Zones A and B.
- ❑ All Primary Seafood Industry claimants (landing sites, certain wholesale/retail dealers, primary processors and distributors).
- ❑ Secondary Seafood Industry claimants (processors, distributors, retailers) in Zones A, B and C.
- ❑ Charter Fishing businesses in Zones A, B and C.

Tourism

- Businesses which provide services such as attracting, transporting, accommodating or catering to the needs or wants of persons traveling to, or staying in, places outside their home community
- Use NAICS codes:

Tourism

447110	Gasoline Stations with Convenience Stores
447190	Other Gasoline Stations
448110	Men's Clothing Stores
448120	Women's Clothing Stores
448130	Children's and Infants' Clothing Stores
448140	Family Clothing Stores
448150	Clothing Accessories Stores
448190	Other Clothing Stores
451110	Sporting Goods Stores
452111	Department Stores (except Discount Department Stores)
452990	All Other General Merchandise Stores
453220	Gift, Novelty, and Souvenir Stores
485310	Taxi Service
487110	Scenic and Sightseeing Transportation, Land

487210	Scenic and Sightseeing Transportation, Water
487990	Scenic and Sightseeing Transportation, Other
488119	Other Airport Operations
532111	Passenger Car Rental
532292	Recreational Goods Rental
561520	Tour Operators
561599	All Other Travel Arrangement and Reservation Services
711211	Sports Teams and Clubs
712110	Museums
712120	Historical Sites
712130	Zoos and Botanical Gardens
712190	Nature Parks and Other Similar Institutions
713110	Amusement and Theme Parks
713120	Amusement Arcades

Tourism

713910	Golf Courses and Country Clubs
713990	All Other Amusement and Recreation Industries
721110	Hotels (except Casino Hotels) and Motels
721191	Bed-and-Breakfast Inns
721199	All Other Traveler Accommodation
721211	RV (Recreational Vehicle) Parks and Campgrounds
721214	Recreational and Vacation Camps (except Campgrounds)
721310	Rooming and Boarding Houses
722110	Full-Service Restaurants
722211	Limited-Service Restaurants
722213	Snack and Nonalcoholic Beverage Bars
722310	Food Service Contractors
722410	Drinking Places (Alcoholic Beverages)

Seafood Chain in Business Economic Loss Program

- Primary Seafood Industry:
 - Generally, these are entities that handle raw seafood

- Secondary Seafood Industry:
 - Generally, these are entities that handle seafood that was packaged or processed by another entity

Business Economic Loss Claims: Causation

Other businesses have multiple options to qualify for a full causation presumption providing compensation for all post-DWH Spill 2010 losses regardless of specific circumstances:

- Three revenue pattern tests based on changes when compared with historical results. Size of fluctuation depends on where the business is located (Zone B and C have lower thresholds than Zone D).
- Proxy Claimant: Small businesses (less than \$75,000 revenue) may qualify by establishing a causal relationship with a nearby business which satisfied causation.
- Businesses unable to qualify based on Revenue Pattern tests may establish causation for specific lost reservations and contracts and be compensated for those losses.

Causation and Compensation Months and Years

- Causation:
 - 3 consecutive months in May-December 2010 as compared to the same 3 consecutive months in 2011 as well as the same 3 consecutive months in either:
 - 2009
 - The average of 2008 and 2009
 - The average of 2007-2009



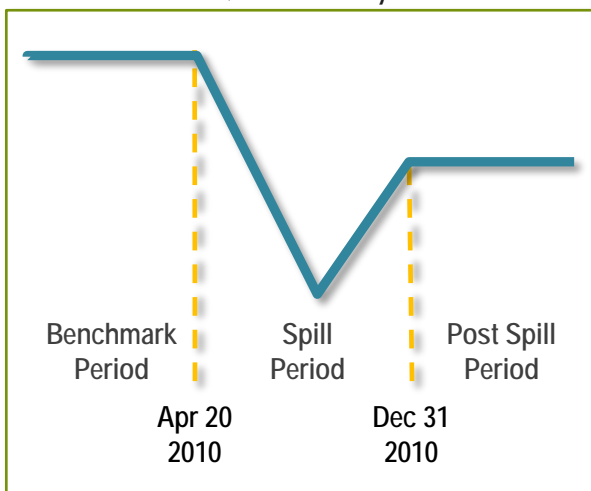
Causation and Compensation Months and Years

- Compensation:
 - **3 or more** consecutive months in May-December 2010 as compared to the same **3 or more** consecutive months in either:
 - 2009
 - The average of 2008 and 2009
 - The average of 2007-2009

Business Economic Loss Claims: Causation Revenue Trend Tests

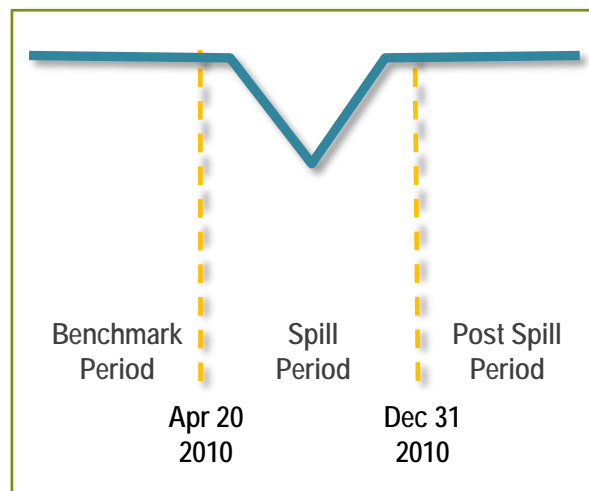
V-Shaped Revenue Pattern

Revenue decline in 2010 Compensation Period (Zone B & C= 8.5%; Zone D= 15%) compared to the same months in the Benchmark Period year(s) followed by recovery (increase in revenues) in the same months of 2011 (B & C= 5%; D= 10%).



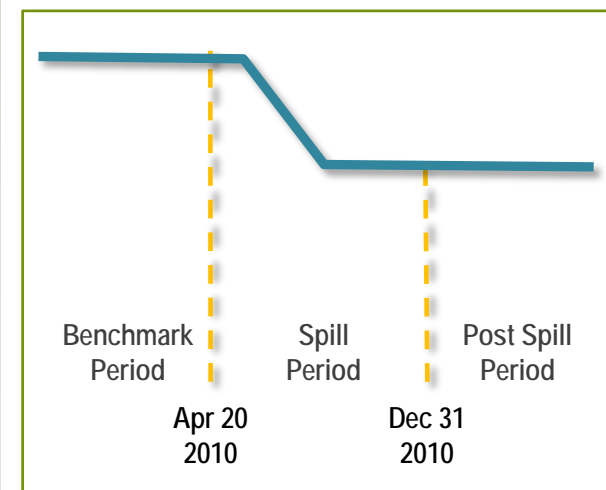
Modified V-Shaped Revenue Pattern

Revenue decline in 2010 Compensation Period (B & C= 5%; D= 10%) compared to the same months in the Benchmark Period year(s) followed by recovery (increase in revenue) in the same months of 2011 (B & C= 5%; D= 7%) plus additional items.

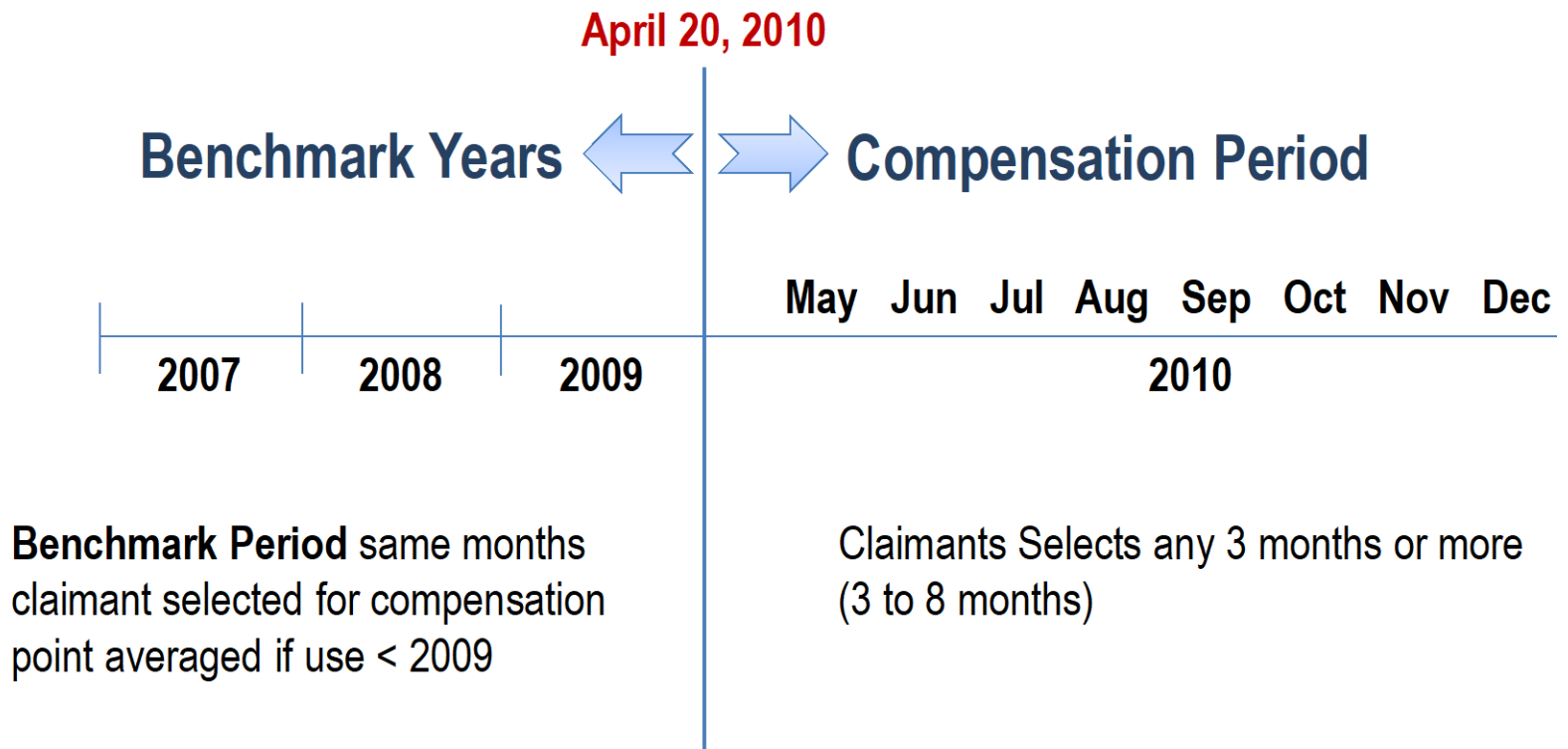


Decline Only Revenue Pattern

Revenue decline in 2010 Compensation Period (Zone B & C= 8.5%; Zone D= 15%) compared to the same months in the Benchmark Period year(s) plus additional items including factors outside company's control preventing recovery.



Benchmark to Compensation



Compensation Calculation

Business Economic Loss Claims: Total Compensation

Total Compensation to the claimant is equal to the compensation from Step 1 and Step 2 increased by the RTP and then reduced by any prior DWH Spill-related payments:

Lost Variable Profits =

(Step 1 Compensation + Step 2 Compensation)

Total Compensation =

Lost Variable Profits + (Lost Variable Profits x RTP)
- (DWH Spill Related Payments & VoO Offset)

Risk Transfer Premium

- An enhancement factor multiplied by the Compensation Amount
- Accounts for risk of future injury, future oilings, uncertainty, etc.
- Works as a multiplier
- If someone has an RTP of 2.0, it is an effective multiplier of 3.0
- Example:
 - Compensation Amount = \$100,000
 - RTP of 2.0 = \$200,000
 - Total Compensation = \$300,000

Effective Multiplier (Base Compensation + RTP)

Industry	Zone A	Zone B	Zone C	Zone D
Tourism	3.50	3.00	3.00	2.25
Charter Fishing	3.50	3.50	3.50	2.25
Primary Seafood Processor (Shrimp/Crab/Oyster)	4.00	4.00	4.00	4.00
Primary Seafood Processor (Other)	3.25	3.25	3.25	3.25
Landing Site or Commercial Wholesale or Retail Dealer A	3.25	3.25	3.25	3.25

Effective Multiplier

Industry	Zone A	Zone B	Zone C	Zone D
Commercial Wholesale or Retail Dealer B, Secondary Seafood Processor, Seafood Wholesaler or Distributor, or Seafood Retailer	3.25	3.25	3.25	3.25
Other Industry	2.50	2.25	1.25	1.25

Zone A – Saved by Presumption

	% Change	% Change	2009		Zone B & C	Zone D
CAUSATION REVENUE TEST USING BENCHMARK PERIOD 2009						
may june july	1.6804%	-1.8329%	2906746.00		FAIL	FAIL
June, July Aug	-3.9945%	-0.8411%	2722238.00		FAIL	FAIL
July Aug Sept	-3.4066%	0.7572%	2601035.00		FAIL	FAIL
Aug Sept Oct	-3.5732%	2.6086%	2807670.00		FAIL	FAIL
Sept Oct Nov	-0.8686%	-0.5302%	2961194.00		FAIL	FAIL
Oct Nov Dec	-0.4923%	1.4564%	2858222.00		FAIL	FAIL
	% Change	% Change	2009-2008		Zone B & C	Zone D
CAUSATION REVENUE TEST USING BENCHMARK PERIOD AVG 2009-2008						
may june july	1.6804%	-12.4114%	3257808.00		FAIL	FAIL
June, July Aug	-3.9945%	-14.1046%	3142589.50		FAIL	FAIL
July Aug Sept	-3.4066%	-20.9245%	3314213.50		FAIL	FAIL
Aug Sept Oct	-3.5732%	-19.5327%	3580226.00		FAIL	FAIL
Sept Oct Nov	-0.8686%	-18.7434%	3624928.50		FAIL	FAIL
Oct Nov Dec	-0.4923%	-11.1440%	3263540.00		FAIL	FAIL
	% Change	% Change	2009-2007		Zone B & C	Zone D
CAUSATION REVENUE TEST USING BENCHMARK PERIOD AVG 2009-2007						
may june july	1.6804%	31.3828%	2171872.00		FAIL	FAIL
June, July Aug	-3.9945%	28.8431%	2095059.67		FAIL	FAIL
July Aug Sept	-3.4066%	18.6132%	2209475.67		FAIL	FAIL
Aug Sept Oct	-3.5732%	20.7009%	2386817.33		FAIL	FAIL
Sept Oct Nov	-0.8686%	21.8850%	2416619.00		FAIL	FAIL
Oct Nov Dec	-0.4923%	33.2839%	2175693.33		FAIL	FAIL
TR for Jan.-Apr. 2010			\$ 3,754,598.00			
TR for Jan. -Apr. of BP			\$ 4,315,093.50			
Claimant Specific Factor					-0.02	
General Adjustment Factor					0.02	
Variable Profit (BP)					699,422.50	
Var. Profit (CP)					194,660.00	
Var. Margin					5.6590%	
Incremental Revenue					0.00	
RTP					1.5	
Step One Compensation					504,762.50	
Step Two Compensation					0.00	
COMPENSATION ESTIMATE					\$ 1,261,906.25	

Zone A RTPs

- Effective Multiplier:
 - Primary Seafood Processor (shrimp, crab, oyster) = 4.00
 - Other Primary Seafood = 3.25
 - Secondary Seafood = 3.25
 - Tourism = 3.50
 - Other Industry = 2.50

Zone B

Causation is presumed for these businesses:

- Tourism
- Charter Fishing
- Landing Site
- Commercial Wholesale or Retail Dealer A
- Primary Seafood Processor
- Commercial Wholesale or Retail Dealer B
- Secondary Seafood Processor
- Seafood Wholesaler or Distributor
- Seafood Retailer

Zone B

- Causation is NOT presumed for any other business type not listed above.
- Causation may be established in one of several ways.

Zone C

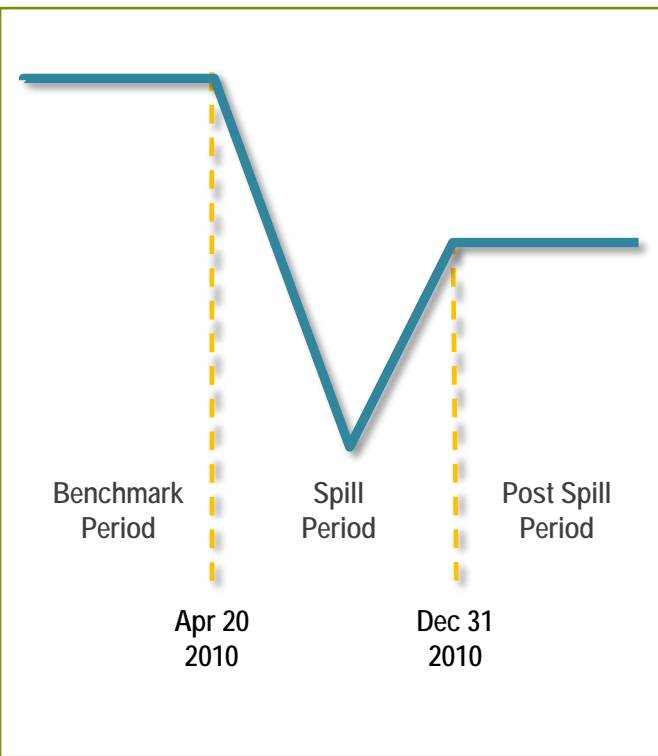
Causation is presumed for these businesses:

- Charter Fishing
- Landing Site
- Commercial Wholesale or Retail Dealer A
- Primary Seafood Processor
- Commercial Wholesale or Retail Dealer B
- Secondary Seafood Processor
- Seafood Wholesaler or Distributor
- Seafood Retailer
 - Seafood Costs > 25% Total Food Cost
 - Restaurants otherwise not presumed become presumed

Zone C

- Causation is NOT presumed for any other business type not listed above.
- Causation may be established in one of several ways.

Zone B & C - Causation



V Shaped Revenue Pattern

- 1) Decrease of $\geq 8.5\%$ in total revenues over a period of 3 consecutive months between May – December 2010 **AND**
- 2) Increase of $\geq 5\%$ in total revenues over the same period of 3 consecutive months in 2011 compared to 2010

Zone D

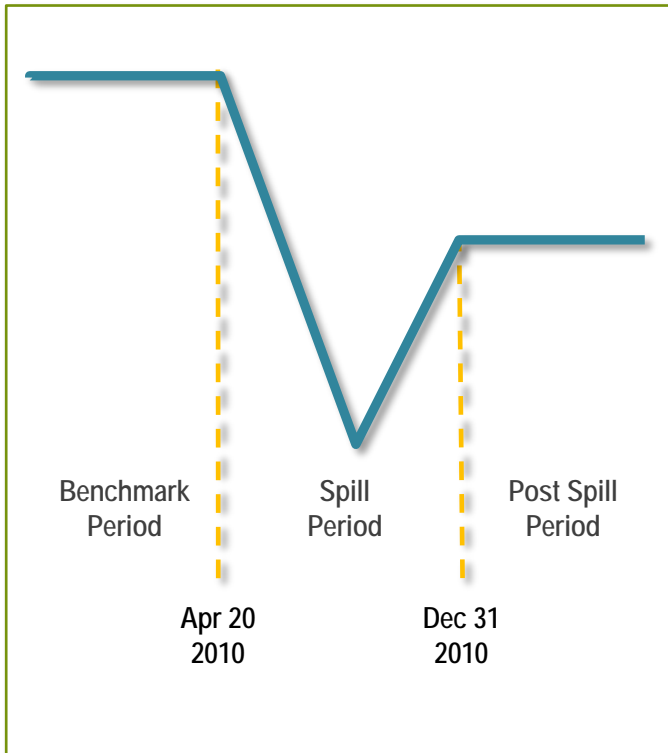
Causation is presumed for these businesses:

- Landing Site
- Commercial Wholesale or Retail Dealer A
- Primary Seafood Processor

Zone D

- Causation is NOT presumed for any other business type not listed above.
- Causation may be established in one of several ways.

Causation for Zone D



V Shaped Revenue Pattern

- 1) Decrease of $\geq 15\%$ in total revenues over a period of 3 consecutive months between May – December 2010 **AND**
- 2) Increase of $\geq 10\%$ in total revenues over the same period of 3 consecutive months in 2011 compared to 2010

The Importance of Monthly Calculations

Construction Company, Lafayette Parish

ZONE D

TOTAL REVENUE

2007	1,789,461
2008	1,619,003
2009	1,718,168
2010	2,594,583
2011	1,738,734

TOTALS

9,459,949

	% Change	% Change	2009	Zone B & C	Zone D
CAUSATION REVENUE TEST USING BENCHMARK PERIOD 2009					
may june july	-68.7801%	125.1187%	394608.80	FAIL	FAIL
June, July Aug	-71.7608%	205.5952%	321739.59	FAIL	FAIL
July Aug Sept	-67.7238%	197.7799%	328547.50	FAIL	FAIL
Aug Sept Oct	-34.8610%	67.8761%	343568.78	FAIL	FAIL
Sept Oct Nov	25.3924%	17.4637%	372120.11	FAIL	FAIL
Oct Nov Dec	47.6307%	-17.0263%	419010.82	PASS	PASS
	% Change	% Change	2009-2008	Zone B & C	Zone D
CAUSATION REVENUE TEST USING BENCHMARK PERIOD AVG 2009-2008					
may june july	-68.7801%	112.1716%	418688.57	FAIL	FAIL
June, July Aug	-71.7608%	162.6047%	374410.94	FAIL	FAIL
July Aug Sept	-67.7238%	193.0371%	333865.08	FAIL	FAIL
Aug Sept Oct	-34.8610%	56.9179%	367561.56	FAIL	FAIL
Sept Oct Nov	25.3924%	8.4706%	402972.02	FAIL	FAIL
Oct Nov Dec	47.6307%	-26.1280%	470636.37	PASS	PASS
	% Change	% Change	2009-2007	Zone B & C	Zone D
CAUSATION REVENUE TEST USING BENCHMARK PERIOD AVG 2009-2007					
may june july	-68.7801%	111.5246%	419969.21	FAIL	FAIL
June, July Aug	-71.7608%	130.9065%	425809.00	FAIL	FAIL
July Aug Sept	-67.7238%	134.3521%	417469.51	FAIL	FAIL
Aug Sept Oct	-34.8610%	26.8298%	454758.95	FAIL	FAIL
Sept Oct Nov	25.3924%	-8.0453%	475349.43	FAIL	FAIL
Oct Nov Dec	47.6307%	-29.0087%	489734.11	PASS	PASS

Zone D RTPs

- Effective Multiplier:
 - Primary Seafood Processor (shrimp, crab, oyster) = 4.00
 - Other Primary Seafood = 3.25
 - Secondary Seafood = 3.25
 - Tourism = 2.25
 - Other Industry = 1.25

Seafood Compensation Program

Background on Seafood Compensation Program

Eligible claimants:

- Vessel Owners/Lessees
- Boat Captains
- Seafood Crew
- Oyster Leaseholders
- Finfish IFQ Holders

\$2.3 billion Seafood Compensation Program

- Estimated to result in prompt claims payments of \$1.9 billion
- Projected \$400 million balance (16% of program)
- It is expected that remaining funds will be distributed on a pro-rata basis based on initial payments, but the Neutral may recommend an alternative distribution based on a review of initial distribution.
- Claims may be submitted after preliminary approval, but no later than 30 days after final approval of settlement

Compensation Frameworks

Shrimp

- ❑ Vessel Owner / Lessee Lost Income
- ❑ Boat Captains Lost Income

Oysters

- ❑ Leaseholder Interest
- ❑ Leaseholder Lost Income
- ❑ Vessel owner / Lessee Lost Income
- ❑ Boat Captains Lost Income

Blue Crab / Other

- ❑ Vessel Owner / Lessee Lost Income (including trap damage)
- ❑ Boat Captain Lost Income

Finfish

- ❑ Vessel Owner / Lessee Lost Income
- ❑ Boat Captain Lost Income
- ❑ Individual Fishing Quota Holder

Lessee refers to “Commercial Fishermen Vessel Lessee”

Coastal Real Property Damage Compensation



Coastal

Payments

	Base Minimum	+	RTP	=	Minimum Payment
A1	1,000	+	2,500	=	3,500
A2	1,100	+	2,750	=	3,850
B1	800	+	2,000	=	2,800
B2	800	+	2,000	=	2,800

Compensation Framework for Wetlands Real Property Claims

Compensation for Eligible Parcel in Compensation Category A Along SCAT Line

Compensation based on acreage calculated as inland distance from SCAT Line.

An Eligible Parcel is divided into three areas:

Oiled Primary Area:

50 feet inland
Compensated at \$25,000/acre

Oiled Primary Area Buffer:

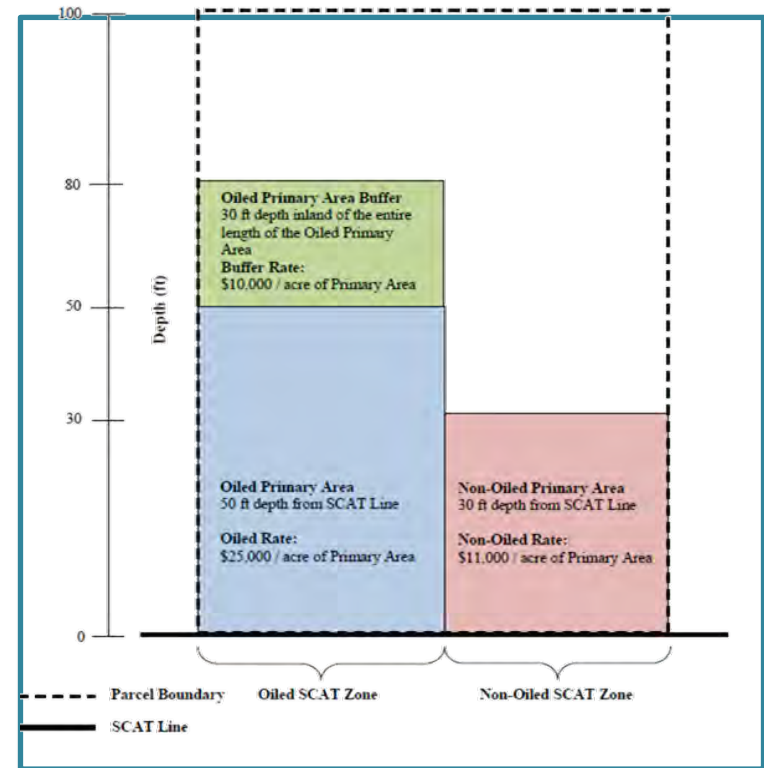
30 feet inland
Compensated at \$10,000/acre

Non-Oiled Primary Area (if applicable):

30 feet inland
Compensated at \$11,000/acre

Length of oiled and non-oiled SCAT line is taken from the “Maximum Oiling Observed” file available on ERMA website.

Compensation Calculation for Hypothetical Parcel in Compensation Category A



- Each Eligible Parcel receives a minimum compensation of one acre of Oiled Primary Area and one acre of Oiled Primary Area Buffer (totals \$35,000).
- An RTP of 2.5 is applied to the compensation amount.