

### **Summary of the RESTORE Act of 2012**

The following is a brief summary of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (the “RESTORE Act” or “Act”). The Act establishes the Gulf Coast Restoration Trust Fund (the “Trust Fund”), which will consist of 80% of all administrative and civil penalties, pursuant to a court order, negotiated settlement, or other instrument in compliance with the Clean Water Act, paid for by responsible parties after the date of enactment of the Act in connection with the *Deepwater Horizon* Oil Spill (the “Oil Spill”).

#### I. Summary of Trust Fund Allocation under the Act

- 35% in equal parts to Alabama, Florida, Louisiana, Mississippi, and Texas (“Gulf Coast States”) for ecological and economic restoration
- 30% to the Gulf Coast Ecosystem Restoration Council (the “Council”) to carry out the Comprehensive Plan
- 30% to Gulf Coast States pursuant to Oil Spill Restoration Impact Allocation formula
- 2.5% to carry out the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program (the “Program”)
- 2.5% in equal shares to the Gulf Coast States for grants to establish centers of excellence to conduct research on the Gulf Coast region

#### II. State Allocation and Expenditures

Of the total amount available in the Trust Fund, 35% shall be available to the Gulf Coast States in equal amounts for ecological and economic restoration of the Gulf Coast region. The Mississippi Department of Environmental Quality shall administer Mississippi’s share of funds under the Act. Amounts from the Trust Fund may only be used by a Gulf Coast State for one or more of the following activities:

- Restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region
- Mitigation of damage to fish, wildlife, and natural resources
- Implementing a federally-approved marine, coastal or comprehensive management plan, including fisheries monitoring
- Workforce development and job creation

- Improvements to or on State parks located in coastal areas affected by the Oil Spill
- Infrastructure projects benefitting the economy or ecological resources, including port infrastructure
- Coastal flood protection and related infrastructure
- Planning assistance
- Administrative costs of complying with this subsection (no more than 3% of the amount received by a Gulf Coast State under this allotment)

Amounts provided to Gulf Coast States may be used to carry out one or more of the following activities to promote tourism and seafood in the Gulf Coast region:

- Promotion of tourism in the Gulf Coast region, including recreational fishing
- Promotion of the consumption of seafood harvested from the Gulf Coast region

Funds made available under the Act may only be used to acquire land or interests in land by purchase, exchange, or donation from a willing seller. None of the funds may be used to acquire land in fee title by the Federal Government unless (1) the land is acquired by exchange or donation; or (2) the acquisition is necessary for the restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region and has the concurrence of the Governor of the State in which the acquisition will take place.

As a condition of receiving amounts from the Trust Fund, a Gulf Coast State shall:

- Agree to meet Treasury audit requirements
- Certify that the project or program for which the State is requesting funds:
  - Is designed to restore the natural resources or economy of the Gulf Coast region
  - Carries out one or more of the eligible activities (listed above)
  - Was selected based on meaningful public input
  - In the case of natural resource protection, is based on the best available science
- Certify that the project or program is consistent with standard procurement rules
- Develop and submit a multiyear implementation plan for use of the funds

If the Secretary of Treasury determines that a Gulf Coast State does not meet the requirements set forth above, the Gulf Coast State may obtain expedited judicial review within 90 days after that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking review. A Gulf Coast State may use amounts made available to that State from the Trust Fund to satisfy the non-Federal share of the cost of any project or program that meets the eligible use requirements set forth above. In awarding contracts to carry out a project or program under the Act, a Gulf Coast State may give a preference to

individuals and companies that reside in, are headquartered in, or are principally engaged in business in, a Gulf Coast State. Any funds not identified in an implementation plan by a Gulf Coast State shall remain in the Trust Fund until such time as the State to which the funds have been allocated develops and submits a multiyear implementation plan identifying uses for those funds.

III. Gulf Coast Ecosystem Restoration Council

a. *The Comprehensive Plan*

Of the total amount made available in any fiscal year from the Trust Fund, 30% shall be disbursed to the Council to carry out the Comprehensive Plan to undertake projects and programs, using best available science, that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast region. The Council shall publish a proposed Comprehensive Plan within 180 days after the date of enactment of this Act, including appropriate public input. Not later than one year after the date of enactment of this Act, including appropriate public input, the Council shall publish the initial Comprehensive Plan in the Federal Register. The Council shall update the Comprehensive Plan every five years.

The Comprehensive Plan shall include a prioritized list of specific projects and programs to be funded and carried out during the three-year period immediately following publication of the Plan. Such list shall be updated annually. The list shall be prioritized based on the following criteria: (1) projects that are projected to make the greatest contribution to restoring and protecting the natural resources and habitats of the Gulf Coast ecosystem; (2) large-scale projects and programs projected to contribute to restoring such resources and habitats; (3) projects contained in existing Gulf Coast State comprehensive plans for the restoration and protection of such resources and habitats; and (4) projects that restore long-term resiliency of such resources and habitats.

Primary authority and responsibility for each project and program included in the Comprehensive Plan shall be assigned by the Council to a Gulf Coast State represented on the Council or a Federal agency, and amounts necessary to carry out each project or program shall be transferred to such State or Federal agency as the project is implemented. In the case of funds transferred to a Federal or State agency under this section, the agency shall not make grants or cooperative agreements to a nongovernmental entity if the total amount provided to the entity would equal or exceed 10% of the total amount provided to the agency for that particular project or program, unless the grant(s) has been reported to Congress at least 30 days prior to making a grant or entering into a cooperative agreement.

b. *Council Governance and Voting*

The Council consists of the following members: the governors of the five affected Gulf Coast States, the Secretary of the Interior, the Secretary of the Army, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the head of the department in which the Coast Guard is operating. Significant actions by the Council, such as approval of a Comprehensive Plan and future revisions to a Comprehensive Plan, shall require the affirmative vote of the Federal Chairperson and a majority of the State members to be effective. From among the Federal agency members of the Council, the representatives of States on the Council shall select, and the President shall appoint, one Federal member to serve as Chairperson of the Council.

IV. Funds to States under Oil Spill Restoration Impact Allocation Formula

a. *The Formula*

Of the total amount made available from the Trust Fund, 50% shall be disbursed to the Gulf Coast States based on the following formula:

- 40% based on the proportionate number of shoreline miles in each Gulf Coast State that experienced oiling on or before of April 10, 2011, compared to the total number of shoreline miles that experienced oiling as a result of the Oil Spill.
- 40% based on the inverse proportion of the average distance from the *Deepwater Horizon* oil rig at the time of the explosion to the nearest and farthest point of the shoreline that experienced oiling of each Gulf Coast State
- 20% based on the average population of coastal counties from the 2010 census bordering the Gulf of Mexico within each Gulf Coast State

No less than 5% of the total amounts made available under this allotment will be disbursed to a Gulf Coast State for each fiscal year.

b. *Gulf Coast State Plan*

Based on the above formula, funds will be disbursed for projects and activities that are eligible, contribute to the overall economic and ecological recovery of the Gulf Coast, and are consistent with the Comprehensive Plan's goals and objectives, subject to the condition that each Gulf Coast State submits a plan for the expenditure of amounts disbursed under this allotment ("State Plans"). State Plans may not use more than 25% of the funding made available for infrastructure projects unless ecosystem restoration needs in the State will be addressed by the project and additional investment in infrastructure is needed to mitigate the impact of the oil spill. Mississippi's State Plan shall be developed by the Office of the Governor or an appointee of that office. Not later than 60 days after the date on which a State Plan is submitted, the Council shall approve or disapprove the State Plan. If the Council disapproves a State Plan, the

Council shall provide the reasons in writing and consult with the State to address any identified deficiencies. If the Council fails to approve or take action within 60 days on a State Plan, the State may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking the review. The use of funds under the State Plan to satisfy the non-Federal share of the cost of a project or program shall not affect the priority in which other Federal funds are allocated or awarded.

V. The Program

Of the total amount made available each fiscal year for the Trust Fund, 2.5% shall be allocated to carry out the Program. The Program is established within and administered by the National Oceanic and Atmospheric Administration (“NOAA”) to carry out research, observation, and monitoring to support, to the maximum extent practicable, the long-term sustainability of the ecosystem, fish stocks, fish habitat and the recreational, commercial and charter fishing industry in the Gulf of Mexico. Amounts under the Program may be expended for (1) marine and estuarine research; (2) marine and estuarine ecosystem monitoring and ocean observation; (3) data collection and stock assessments; (4) pilot programs for fishery independent data and reduction of exploitation of spawning aggregations; and (5) cooperative research. The Administrator of NOAA, in consultation with the Director of the United States Fish and Wildlife Service, shall develop a plan for the coordination of projects and activities between the Program and other existing Federal and State science and technology programs in the Gulf Coast States, as well as between the centers of excellence. The Program funds may not be used for the following: (1) for any existing or planning research led by NOAA, unless agreed to in writing by the grant recipient; (2) to implement existing regulations or initiate new regulations promulgated or proposed by NOAA; or (3) to develop or approve a new limited access privilege program for any fishery under the jurisdiction of the South Atlantic, Mid-Atlantic, New England, or Gulf of Mexico Fishery Management Councils.

VI. Centers for Excellence Research Grants

Of the total amount available for each fiscal year from the Trust Fund, 2.5% shall be made available to the Gulf Coast States, in equal shares, exclusively for grants to establish centers of excellence to conduct research only on the Gulf Coast region.

a. *Approval by State Entity*

The duties of a Gulf Coast State under this section shall be carried out by the applicable Gulf Coast State entities, task forces, or agencies listed in section 311(t)(91)(F) of the Clean Water Act (as amended by section 1603 of the RESTORE Act), and for Florida, a consortium of public and private research institutions within the State, which shall include the Florida Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission, for that Gulf Coast State.

Accordingly, duties of the State of Mississippi under this section shall be carried out by the Mississippi Department of Environmental Quality.

b. *Grants*

A Gulf Coast State shall use amounts made available to carry out this section to award competitive grants to nongovernmental entities and consortia in the Gulf Coast region (including public and private institutions of higher education) for the establishment of centers of excellence.

To be eligible to receive a grant under this subsection, an entity or consortium shall submit to a Gulf Coast State an application at such time, in such manner, and containing such information as the Gulf Coast State determines to be appropriate.

In awarding such grants, a Gulf Coast State shall give priority to entities and consortia that demonstrate the ability to establish the broadest cross-section of participants with interest and expertise in any of the disciplines described in Section (c), below.

c. *Disciplines*

Each center of excellence shall focus on science, technology, and monitoring in at least one of the following disciplines:

- a. Coastal and deltaic sustainability, restoration and protection, including solutions and technology that allow citizens to live in a safe and sustainable manner in a coastal delta in the Gulf Coast Region
- b. Coastal fisheries and wildlife ecosystem research and monitoring in the Gulf Coast Region
- c. Offshore energy development, including research and technology to improve the sustainable and safe development of energy resources in the Gulf of Mexico
- d. Sustainable and resilient growth, economic and commercial development in the Gulf Coast Region
- e. Comprehensive observation, monitoring, and mapping of the Gulf of Mexico

VII. Use of Trust Fund Interest

Of the total amount made available for any fiscal year from the Trust Fund that is equal to the interest earned by the Trust Fund and proceeds from investments made by the Trust Fund, such amount will be divided equally between the following:

- 50% to the Program
- 50% to the Council to carry out the Comprehensive Plan