§ 1.382–3(j)(17) is the same as the text of § 1.382–3T(j)(17) published elsewhere in this issue of the **Federal Register**].

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2014–17831 Filed 7–30–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

31 CFR Part 34

RIN 1505–AC49

Gulf Coast Restoration Trust Fund

AGENCY: Office of the Fiscal Assistant Secretary, Treasury.

ACTION: Proposed rulemaking.

SUMMARY: The Department of the Treasury proposes regulations for the Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act). The proposed regulations concern amounts available to eligible Louisiana parishes from the Gulf Coast Restoration Trust Fund, a fund established in the Treasury of the United States by the RESTORE Act. Treasury published other proposed regulations for the RESTORE Act on September 6, 2013.

DATES: *Comment due date:* September 2, 2014.

ADDRESSES: Treasury invites comments on the allocation to Louisiana parishes contained in this proposed rule. Comments may be submitted through one of these methods:

Electronic Submission of Comments: Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Department to make them available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public.

Mail: Send to Department of the Treasury, Attention Janet Vail, Room 1132; 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Email: Send to *RESTORErule@treasury.gov.*

In general, Treasury will post all comments to *www.regulations.gov* without change, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. Treasury will also make such comments available for public inspection and copying in Treasury's Library, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 622–0990. All comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Please send questions by email to *RESTORErule@treasury.gov* or contact Janet Vail, 202–622–6873.

SUPPLEMENTARY INFORMATION:

I. Background

The RESTORE Act makes funds available for the restoration and protection of the Gulf Coast region through a new trust fund in the Treasury of the United States, known as the Gulf Coast Restoration Trust Fund. The trust fund will contain 80 percent of the administrative and civil penalties paid after July 6, 2012, under the Federal Water Pollution Control Act in connection with the *Deepwater Horizon* oil spill. One component of the Act, the Direct Component, sets aside 35 percent of the penalties paid into the trust fund for grants to the State of Alabama, the State of Mississippi, the State of Texas, the State of Louisiana and 20 Louisiana parishes, and 23 Florida counties. The Direct Component provides an equal amount to each of the five Gulf Coast States, and allocates 30 percent of Louisiana's share to the 20 eligible parishes.

On September 6, 2013, Treasury published a proposed rule to implement the Act (78 FR 54801). The proposed rule identified the 20 Louisiana parishes eligible to receive funds under the Direct Component, but not the share of each parish. The Act provides a weighted formula for determining each parish's share. In the notice accompanying the proposed rule, Treasury requested comments on the information and methodology necessary for determining each parish's share. As discussed below, Treasury has considered these comments and other information, and now proposes regulations that allocate a percentage to each eligible Louisiana parish under the Direct Component.

II. This Proposed Rule

Under the Direct Component, each eligible Louisiana parish receives a share based on a weighted formula of three elements: (a) 40 percent based on the weighted average of miles of parish shoreline oiled, (b) 40 percent based on the weighted average of the population of the parish, and (c) 20 percent based on the weighted average of the land mass of the parish. 33 U.S.C. 1321(t)(1)(D)(i). In their comments on the proposed rule, the State of Louisiana and one parish proposed that Treasury include additional factors, in order to account for the degree of oiling, measures of re-oiling, the type of shoreline that experienced oiling, and other factors. They suggested that an approach which takes these factors into account would provide a more comprehensive assessment of injury and fairer allocation of funds. Louisiana did not describe how these additional factors should be weighed or provide a statutory basis for applying these new criteria, and noted that ''creating a consistent and fair metric based on these factors will be very difficult.'' [1]

Treasury is proposing regulations that base the allocation for each eligible parish solely on the factors listed in the Act for the Direct Component. The Act clearly identifies just three factors for determining each parish's share. If Treasury added additional factors and a new formula for weighing them in its regulation, the responsibility for allocating the trust fund would shift from Congress to Treasury. Nothing in the statute or the legislative history indicates that Congress intended Treasury to make its own determination about the relative harm suffered by individual parishes. The touchstone for Treasury's proposed regulation, therefore, is the statute itself.

The first statutory factor is the weighted average of miles of the parish shoreline oiled. For this factor, Treasury used data from the United States Coast Guard showing the number of miles of parish shoreline oiled between 2010, the initial year of response to the *Deepwater Horizon* spill, and July 6, 2012, the date of enactment for the RESTORE Act. According to the Coast Guard, the data were gathered using the Shoreline Clean-up Assessment Technique (SCAT), a systematic method for surveying an affected shoreline after an oil spill. SCAT was performed under the structure of the Gulf Coast Incident Management Team (GC–IMT), the entity

[1] Letter from Garret Graves, State of Louisiana, to Dep't of the Treasury (Nov. 5, 2013) at 6 (available at *www.regulations.gov* under number Treas-DO–2013–0005–0055).

in charge of the *Deepwater Horizon* response. The GC–IMT was led by representatives from the Coast Guard and the State of Louisiana. Treasury believes that the SCAT data are appropriate for determining the share of each Louisiana parish under the relevant standards of the Direct Component in the Act. Treasury takes no position on the data that may be appropriate for other uses in connection with ongoing litigation or natural resource damage assessments.

The second statutory factor is the weighted average of the population of the parish. Treasury used 2012 population estimates for each parish published by the United States Census Bureau. These estimates are available at *http://quickfacts.census.gov/qfd/states/22000.html.*

The third statutory factor is the weighted average of the land mass of each parish. Treasury used data from 2010, the most recent available from the United States Census Bureau. The data are available at *http://quickfacts.census.gov/qfd/states/22000.html.*

The Act does not specify which year's data Treasury should use for oiled shoreline or population. Treasury believes it is reasonable to use 2012 data, thereby fixing the share of each parish upon enactment (July 6, 2012), rather than at some unspecified time in the future. This view is based in part on the statutory language. The Act refers to ''parish shoreline oiled'' in the past tense. 33 U.S.C. 1321(t)(1)(D)(i)(II)(aa). The Act also shows that Congress expected that procedures for implementing the Act, including procedures concerning each parish's share, would be completed shortly after enactment. RESTORE Act, Public Law 112–141 sec. 1602(e), 126 Stat. 588. There is no indication in the Act or its legislative history that Congress intended to base each parish's share on data from future years, which were unforeseeable when the statute was enacted. Population changes and small increases in oiled shoreline for some parishes would both affect the size of parish shares if post-2012 data were used. Accordingly, Treasury interprets the Act as referring to shoreline oiled before July 6, 2012, and to parish populations in 2012.

Using the data described above and the statutory factors, Treasury determined each parish's share with the following formula: Parish allocation = (40% * (parish miles oiled/sum all oiled shoreline for eligible parishes)) + (40% * (parish population/sum of all population for eligible parishes)) + (20% * parish land mass/sum of all land mass for eligible parishes). A detailed description of the data Treasury used to determine each parish's share is available in the docket for this proposed rule at *http://www.regulations.gov,* and at *http://www.treasury.gov/services/restore-act/Pages/default.aspx.* The shares resulting from this calculation are set forth in the proposed regulation.

Treasury invites comments on the allocation to eligible Louisiana parishes for the Direct Component. Comments are due within 30 days after publication of this notice in the **Federal Register**.

III. Procedural Requirements

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Treasury previously certified that the proposed rule for the entire Act, published on September 6, 2013, will not have a significant economic impact on a substantial number of small entities. While that rule describes procedures concerning the allocation and expenditure of amounts from the trust fund, most of these requirements come from the Act itself or other Federal law, including the total allocation due to Louisiana parishes under the Direct Component. Treasury received no comments from the Louisiana parishes on this certification.

Treasury certifies that this proposed rule will not have a significant impact on a substantial number of small entities. This rule affects only 20 Louisiana parishes, of which six meet the definition of a small entity under the RFA. Even if a substantial number of small entities was affected, any economic impact of this proposed rule would be minimal. The proposed rule is limited to allocating funds to eligible Louisiana parishes according to a statutory formula, and does not impose any new obligations on these parishes. Treasury invites comments on the impact of this rule on small entities.

B. Regulatory Planning and Review (Executive Orders 12866 and 13563)

The proposed rule for the RESTORE Act, published on September 6, 2013, is a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. The notification for that proposed rule includes a Regulatory Impact Assessment, which covers any economic impact incident to this proposed rule. This proposed rule has been designated a significant regulatory action, although not economically significant, and has been reviewed by the Office of Management and Budget.

List of Subjects in 31 CFR Part 34

Coastal zone, Fisheries, Grant programs, Grants administration, Intergovernmental relations, Marine resources, Natural resources, Oil pollution, Research, Science and technology, Trusts, Wildlife.

For the reasons set forth in the preamble, the Department of the Treasury further proposes to amend 31 CFR subtitle A, part 34, as proposed at 78 FR 54801, Sept. 26, 2013, to read as follows:

PART 34—RESOURCES AND ECOSYSTEMS SUSTAINABILITY, TOURIST OPPORTUNITIES, AND REVIVED ECONOMIES OF THE GULF COAST STATES

■ 1. The authority citation continues to read as follows:

Authority: 31 U.S.C. 301; 31 U.S.C. 321; 33 U.S.C. 1251 *et seq.*

■ 2. In § 34.302, revise the section heading and the second sentence of paragraph (e) to read as follows:

§ 34.302 Allocation of funds—direct component.

* * * * *

(e) * * * The share of each coastal zone parish is as follows: Ascension, 2.42612%; Assumption, 0.93028%; Calcasieu, 5.07063%; Cameron, 2.10096%; Iberia, 2.55018%; Jefferson, 11.95309%; Lafourche, 7.86746%; Livingston, 3.32725%; Orleans, 7.12875%; Plaquemines, 17.99998%; St. Bernard, 9.66743%; St. Charles, 1.35717%; St. James, 0.75600%; St. John the Baptist, 1.11915%; St. Martin, 2.06890%; St. Mary, 1.80223%; St. Tammany, 5.53058%; Terrebonne, 9.91281%; Tangipahoa, 3.40337%; and Vermilion, 3.02766%.

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David A. Lebryk,

Fiscal Assistant Secretary.

[FR Doc. 2014–18131 Filed 7–29–14; 11:15 am]

BILLING CODE 4810–25–P