

Office of the Secretary of the Treasury

§ 34.2

Gulf Coast Ecosystem Restoration Council.

(b) NOAA RESTORE Act Science Program (subpart G of this part) is administered by the National Oceanic and Atmospheric Administration, and authorized by the RESTORE Act, section 1604, 33 U.S.C. 1321 note.

(c) Centers of Excellence Research Grants Program (subpart H of this part) is administered by the Department of the Treasury, and authorized by the RESTORE Act, section 1605, 33 U.S.C. 1321 note.

§ 34.2 Definitions.

As used in this part:

Act or *RESTORE Act* means the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

Activity means an activity, project, or program, including research and monitoring, eligible for funding under the Act.

Administrative costs means those indirect costs for administration incurred by the Gulf Coast States, coastal political subdivisions, and coastal zone parishes that are allocable to activities authorized under the Act. Administrative costs do not include indirect costs that are identified specifically with, or readily assignable to, facilities as defined in 2 CFR 200.414.

Administrative expenses means those expenses incurred for administration by the Council or NOAA, including expenses for general management functions, general ledger accounting, budgeting, human resource services, general procurement services, and general legal services. Administrative expenses do not include expenses that are identified specifically with, or readily assignable to:

- (1) Facilities;
- (2) Eligible projects, programs, or planning activities;
- (3) Activities related to grant applications, awards, audit requirements, or post-award management, including payments and collections;
- (4) The Council's development, publication, and implementation of the Comprehensive Plan and any subsequent amendments;

(5) The Council's development and publication of regulations and procedures for implementing the Spill Impact Component, and the review of State Expenditure Plans submitted under the Spill Impact Component;

(6) Preparation of reports required by the Act;

(7) Establishment and operation of advisory committees; or

(8) Collection and consideration of scientific and other research associated with restoration of the Gulf Coast ecosystem.

Alabama Gulf Coast Recovery Council means the entity identified in section 311(t)(1)(F)(i) of the Federal Water Pollution Control Act, as amended by the RESTORE Act.

Assignee means a member of the Gulf Coast Ecosystem Restoration Council who has been assigned primary authority and responsibility for a project or program included in the Comprehensive Plan through a grant or inter-agency agreement.

Best available science means science that maximizes the quality, objectivity, and integrity of information, including statistical information; uses peer-reviewed and publicly available data; and clearly documents and communicates risks and uncertainties in the scientific basis for such projects.

Centers of Excellence Research Grants Program means the program authorized by section 1605 of the Act.

Coastal political subdivision means any local political jurisdiction that is immediately below the state level of government, including a county, parish, or borough, with a coastline that is contiguous with any portion of the United States Gulf of Mexico. The term includes any of the disproportionately affected counties and nondisproportionately impacted counties in Florida, as defined below.

Coastal zone parishes means the parishes of Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, and Vermilion in the State of Louisiana.

Comprehensive Plan Component means the component of the Gulf RESTORE

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Program authorized by section 311(t)(2) of the Federal Water Pollution Control Act, as added by section 1603 of the Act, in which funds are provided through the Council, in accordance with a plan developed by the Council, to entities to carry out the purposes of the Act.

Council means the Gulf Coast Ecosystem Restoration Council, an independent entity in the Federal Government whose members are the Governors of the Gulf Coast States; the Secretaries of Agriculture, the Army, Commerce, and the Interior; the head of the department in which the Coast Guard is operating, and the Administrator of the Environmental Protection Agency (or their designees at the level of Assistant Secretary or the equivalent).

Deepwater Horizon oil spill means the blowout and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment.

Direct Component means the component of the Gulf RESTORE Program authorized by section 311(t)(1) of the Federal Water Pollution Control Act, as added by section 1603 of the Act, in which Gulf Coast States, coastal zone parishes, disproportionately affected counties, and nondisproportionately impacted counties are provided funds directly by Treasury through grants to carry out the purposes of the Act.

Disproportionately affected counties means the counties of Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, and Walton in the State of Florida.

Federal Water Pollution Control Act means 33 U.S.C. 1251 *et seq.*

Gulf Coast Region means:

(1) In the Gulf Coast States, the coastal zones defined under section 304 of the Coastal Zone Management Act of 1972 that border the Gulf of Mexico;

(2) Land within the coastal zones described in paragraph (1) of this definition that is held in trust by, or the use of which is by law subject solely to the discretion of, the Federal Government or officers or agents of the Federal Government;

(3) Any adjacent land, water, and watersheds, that are within 25 miles of

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the coastal zone described in paragraphs (1) and (2) of this definition; and

(4) All Federal waters in the Gulf of Mexico.

Gulf Coast State means any of the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

Gulf Coast State entity means a party that carries out the duties of a state for the Centers of Excellence Research Grants Program under § 34.702.

Infrastructure means the public facilities or systems needed to support commerce and economic development. These installations and facilities span a wide range, including highways, airports, roads, buildings, transit systems, port facilities, railways, telecommunications, water and sewer systems, public electric and gas utilities, levees, seawalls, breakwaters, major pumping stations, and flood gates. Infrastructure encompasses new construction, upgrades and repairs to existing facilities or systems, and associated land acquisition and planning.

Multiyear Implementation Plan means the plan submitted by entities eligible for funding directly from Treasury under the Direct Component, and described at § 34.303.

NOAA means the National Oceanic and Atmospheric Administration.

NOAA RESTORE Act Science Program means the program authorized by section 1604 of the Act.

Nondisproportionately impacted counties means the counties of Charlotte, Citrus, Collier, Dixie, Hernando, Hillsborough, Jefferson, Lee, Levy, Manatee, Monroe, Pasco, Pinellas, Sarasota, and Taylor in the State of Florida.

Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a program under the Act.

Planning assistance means data gathering, studies, modeling, analysis and other tasks required to prepare plans for eligible activities under § 34.201(a) through (i), including environmental review and compliance tasks and architectural and engineering studies. Planning assistance also means one-time preparations that will allow the recipient to establish systems and processes needed to review grant applications, award grants, monitor grants after

award, and audit compliance with respect to eligible activities under § 34.201 in a Multiyear Implementation Plan or State Expenditure Plan.

Recipient means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under the Act. As used in these regulations, a recipient also includes a pass-through entity. The term recipient does not include subrecipients.

Spill Impact Component means the component of the Gulf RESTORE Program authorized by section 311(t)(3) of the Federal Water Pollution Control Act, as added by section 1603 of the Act, in which Gulf Coast States are provided funds by the Council according to a formula that the Council establishes by regulation, using criteria listed in the Act.

State Expenditure Plan means the plan that each Gulf Coast State must submit to the Council for the expenditure of amounts disbursed under the Spill Impact Component, and described at § 34.503.

Subrecipient means a non-Federal entity that receives a subaward from a recipient to carry out an activity under the Act.

Treasury means the U.S. Department of the Treasury, the Secretary of the Treasury, or his/her designee.

Trust Fund means the Gulf Coast Restoration Trust Fund.

Subpart B—Trust Fund

§ 34.100 The Trust Fund.

Treasury will deposit into the Trust Fund an amount equal to 80 percent of all administrative and civil penalties paid after July 6, 2012 by responsible parties in connection with the explosion on, and sinking of, the mobile offshore drilling unit *Deepwater Horizon* pursuant to a court order, negotiated settlement, or other instrument under section 311 of the Federal Water Pollution Control Act. After these administrative and civil penalties have been deposited into the Trust Fund, the Trust Fund will terminate on the date all amounts owed to the Trust Fund have been returned to the Trust Fund, and all amounts in the Trust Fund have been expended.

§ 34.101 Investments.

The Secretary of the Treasury will invest such amounts in the Trust Fund that are not, in the judgment of the Secretary, required to meet needs for current withdrawals. The Secretary may invest in interest-bearing obligations of the United States, having maturities suitable to the needs of the Trust Fund as determined by the Secretary. These obligations will bear interest at rates described in 31 U.S.C. 9702, unless the Secretary determines that such rates are unavailable for obligations with suitable maturities. In that event, the Secretary will select obligations of the United States bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

§ 34.102 Interest earned.

Interest earned on Trust Fund investments will be available as described in § 34.103(b).

§ 34.103 Allocation of funds.

The amounts in the Trust Fund are allocated among the programs in § 34.1.

(a) Available funds in the Trust Fund, other than interest, are allocated as follows:

(1) Thirty-five percent in equal shares for the Gulf Coast States to be used for the Direct Component of the Gulf RESTORE Program. Section 34.302 describes the allocation for each Gulf Coast State.

(2) Thirty percent for the Council to be used for the Comprehensive Plan Component of the Gulf RESTORE Program.

(3) Thirty percent for formula distribution to Gulf Coast States to be used for the Spill Impact Component of the Gulf RESTORE Program.

(4) Two and one-half percent to be used for the NOAA RESTORE Act Science Program.

(5) Two and one-half percent in equal shares for the Gulf Coast States to be used for the Centers of Excellence Research Grants Program.

(b) Within ten days of the close of a Federal fiscal year, available funds equal to the interest earned on the