

An Overview of the RESTORE Act

What is the RESTORE Act?

The Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012—better known as the “**RESTORE Act**”—was enacted on July 6, 2012.

The RESTORE Act creates a Gulf Coast Restoration Trust Fund (RTF), which will receive **80% of any Clean Water Act (CWA) civil and administrative penalties** paid by BP and other companies responsible for the *Deepwater Horizon* oil spill. The RTF will support a variety of restoration, recovery, and research activities in the Gulf.

What are Clean Water Act penalties?

The CWA regulates the discharge of pollutants into U.S. waters. Parties responsible for discharging oil in violation of the Act face penalties. The **U.S. Department of Justice** has filed a lawsuit seeking CWA civil penalties for *Deepwater Horizon*.

Where do penalties normally go?

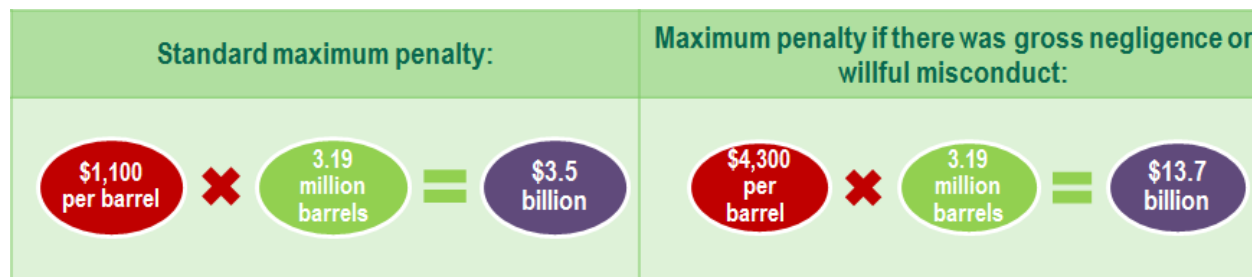
Without the RESTORE Act, all civil penalty monies would go to the **Oil Spill Liability Trust Fund** for, among other things, use in *future* oil spills.

How much money might be involved?

The amount of civil penalties collected will depend on a number of factors. These include whether the parties responsible for the spill acted with gross negligence or willful misconduct, the amount of oil discharged into the water, and other factual findings about the spill. The parties may also settle on a penalty amount.

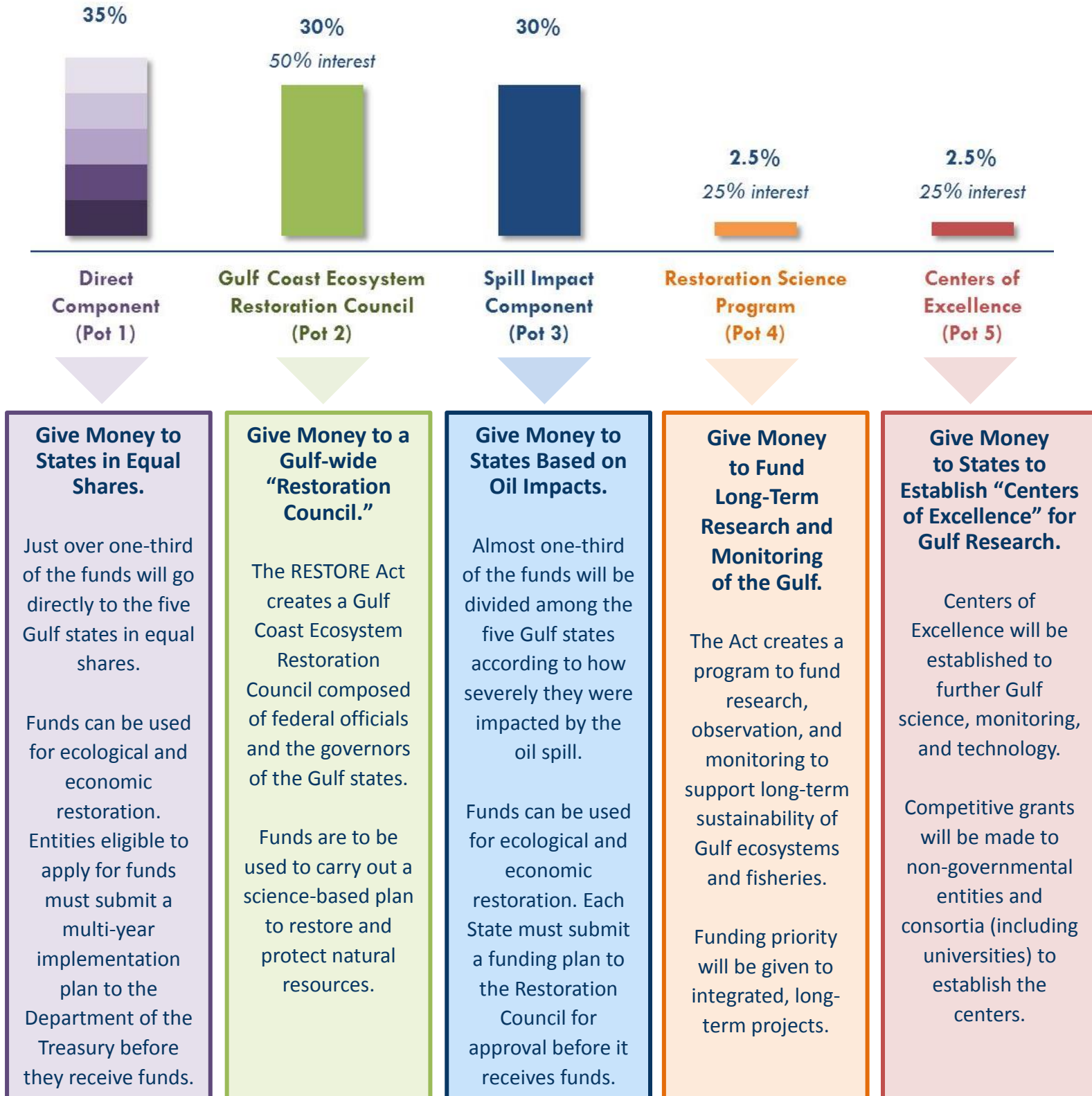
So far, the court has determined that the oil spill was the result of BP’s “gross negligence” and “willful misconduct” (note that BP is appealing this decision). The court has also ruled that “3.19 million barrels of oil discharged into the Gulf of Mexico.” The *maximum* CWA civil penalty that BP faces is therefore \$13.7 billion.

It is important to keep in mind that the court must also consider certain factors set out in the CWA when determining penalty amounts. The court has yet to rule on those factors.



What will the RESTORE Act do?

The largest portion of the RTF (35%) will be distributed directly to the Gulf states in equal shares (7% each). Just under one-third of the funds (30%, plus 50% of the interest earned) will go to a Gulf-wide Restoration Council. Slightly less (30%) will be divided among the Gulf states based on their oil spill impacts. The remainder (5%, plus 50% of the interest earned) will fund scientific research and monitoring through a Restoration Science Program and “Centers of Excellence.”



Give Money to States in Equal Shares.

Just over one-third of the funds will go directly to the five Gulf states in equal shares.

Funds can be used for ecological and economic restoration.

Entities eligible to apply for funds must submit a multi-year implementation plan to the Department of the Treasury before they receive funds.

Give Money to a Gulf-wide "Restoration Council."

The RESTORE Act creates a Gulf Coast Ecosystem Restoration Council composed of federal officials and the governors of the Gulf states.

Funds are to be used to carry out a science-based plan to restore and protect natural resources.

Give Money to States Based on Oil Impacts.

Almost one-third of the funds will be divided among the five Gulf states according to how severely they were impacted by the oil spill.

Funds can be used for ecological and economic restoration. Each State must submit a funding plan to the Restoration Council for approval before it receives funds.

Give Money to Fund Long-Term Research and Monitoring of the Gulf.

The Act creates a program to fund research, observation, and monitoring to support long-term sustainability of Gulf ecosystems and fisheries.

Funding priority will be given to integrated, long-term projects.

Give Money to States to Establish "Centers of Excellence" for Gulf Research.

Centers of Excellence will be established to further Gulf science, monitoring, and technology.

Competitive grants will be made to non-governmental entities and consortia (including universities) to establish the centers.

How Can I Participate in the RESTORE Act?

There are several opportunities for the public to participate in the RESTORE Act. Some of these opportunities are listed below.

General Participation Opportunities

The **amount of civil penalties** that are paid by BP and other companies responsible for the spill may be determined through a settlement. If so, the proposed agreement will be open for public comment before the court determines whether or not to approve it.

HOW TO PARTICIPATE: Comment on any settlement reached between the federal government and the companies responsible for the spill.

Certain activities conducted under the various funding pots may trigger **National Environmental Policy Act (NEPA) review**. If so, there may be an opportunity for public comment.

HOW TO PARTICIPATE: Review and comment on any NEPA documents that are released (e.g. the Gulf Coast Ecosystem Restoration Council released proposed procedures for implementing NEPA. Comments were due in Feb. 2015).

35%



Direct Component (Pot 1)

Before states (and, in some states, local governments) receive their **equal-share funds**, they must, among other things, develop a multi-year implementation plan. The public must be given at least 45 days to review and comment on those plans.

HOW TO PARTICIPATE: Submit project ideas to the lead entities in each state; **review and comment** on implementation plans when they become available for public comment.

Louisiana coastal parishes must also have a comprehensive land use plan in place before receiving funds.

HOW TO PARTICIPATE: Participate in comprehensive land use planning in Louisiana coastal parishes that don't already have such a plan.

30%

50% interest



Gulf Coast Ecosystem Restoration Council (Pot 2)

Only members of the **Gulf Coast Ecosystem Restoration Council** may submit project and program proposals. The first submission window closed in Nov. 2014 (the proposals are available on the Council's website). The Council will select projects and programs from those proposals and include them on a Funded Priorities List, which will be open for public comment before being finalized.

HOW TO PARTICIPATE: Submit project ideas to individual Council members; **participate** in meetings hosted by Council members; **review and provide input** on proposed projects and programs; **review and comment** on the Funded Priorities List when it becomes available for public comment.

30%



Spill Impact
Component
(Pot 3)



Before states receive **funds based on spill impacts**, states (and, in Florida, a consortium of counties) must develop funding plans that describe how funds will be spent. The public must be given at least 45 days to review and comment on the plans.

HOW TO PARTICIPATE: **Submit** project ideas to the lead entities in each state; **review and comment** on plans when they become available for public comment.

2.5%

25% interest



Restoration Science
Program
(Pot 4)



The National Oceanic and Atmospheric Administration (NOAA) is tasked with administering the **NOAA RESTORE Act Science Program**. Most recently, NOAA released a draft science plan that was open for public comment until Dec. 15, 2014.

HOW TO PARTICIPATE: While no specific opportunities are identified in the Act, the program has periodically sought public input on program development (e.g. the draft science plan was open for public comment).

2.5%

25% interest



Centers of
Excellence
(Pot 5)



Each of the Gulf states will receive funds to award competitive grants to Gulf Coast non-governmental entities and consortia (including universities) to establish "**Centers of Excellence.**" Gulf states must show that their rules and policies for grants (including the selection of Centers of Excellence) were available for public comment for at least 45 days.

HOW TO PARTICIPATE: **Comment** on any rules and policies that are released.

Other Ways to Influence What Happens With RESTORE

There are many other ways to make your voice heard in regards to the RESTORE Act. Some of these include:

- Meet with and write letters to members of the Restoration Council, representatives of the Science Program, and members of any state committees or advisory groups formed to allocate RESTORE Act funds
- Rally support for your position among other citizen groups
- Go to the press
- Draft an opinion piece ("op-ed") for your local newspaper
- Lobby an agency or involve a legislator

