

An Overview of the RESTORE Act

What is the RESTORE Act?

The Resources and Ecosystem 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 ecological and economic restoration and recovery projects 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 CWA face penalties. The **U.S. Department of Justice** has filed a lawsuit seeking CWA civil penalties for *Deepwater Horizon*. The court has significant discretion to decide the final penalty amount during trial. If the parties settle, they may agree upon a penalty amount as part of the settlement.

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 cleaning up *future* oil spills.

How much money might be involved?

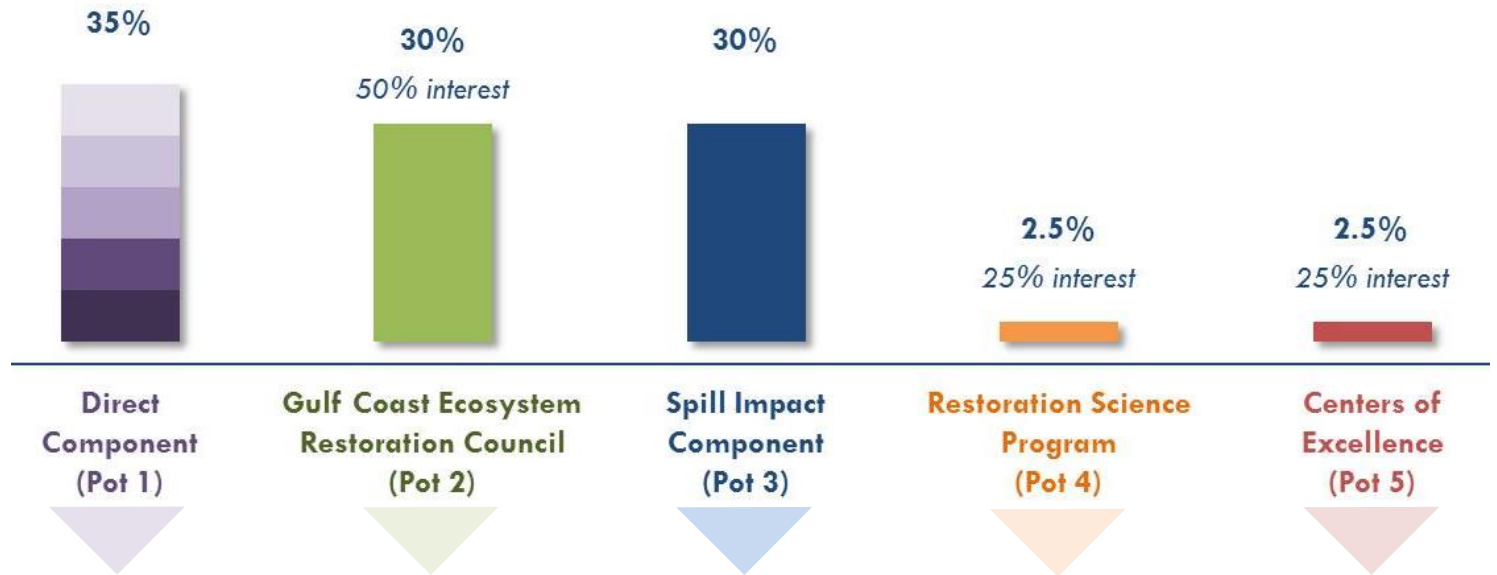
The amount of civil penalties that are collected will depend on a number of factors. These include whether a per-barrel or per-day penalty is applied, whether the responsible parties acted with gross negligence or willful misconduct, whether the case settles, and factual findings about the spill. As a result, there is a wide range of possible penalty amounts.¹

Standard maximum penalty:		Maximum penalty if there was gross negligence or willful misconduct:	
\$37,500 per day	×	87 spill days	= \$3.3 million
OR			
\$1,100 per barrel	×	4.1 million barrels	= \$4.5 billion
\$140,000 per day	×	87 spill days	= \$12 million
OR			
\$4,300 per barrel	×	4.1 million barrels	= \$17.6 billion

¹ In Sept. 2014, the court determined that the oil spill was the result of BP’s “gross negligence” and “willful misconduct.” BP is therefore subject to enhanced penalties. The quantity of oil discharged into the water has yet to be determined by the court. We use 4.1 million barrels, which is the estimate of the U.S. Department of the Interior’s Flow Rate Technical Group in their 2011 report.

What will the RESTORE Act do?

The largest portion of the RTF (35%) will be distributed directly to the Gulf Coast 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 go to the Gulf States based on their oil spill impacts. The remainder of the RTF (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 for Local Recovery.

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. Each State must submit a multi-year implementation plan.

Give Money to a Gulf-wide "Restoration Council" for Local and Interstate Recovery.

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 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.

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

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

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

Give Money to "Centers of Excellence" for Gulf Coast Research.

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

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

How Can I Participate in the RESTORE Act?

The RESTORE Act provides several formal opportunities for the public to participate. 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 agreement. 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

The RESTORE Act called on the U.S. Department of the Treasury to **establish procedures for administering RESTORE Act funds and for assessing the compliance of funded projects**. The draft procedures were released in September 2013. On August 15, 2014, Treasury released an interim final rule. Comments were due Sept. 15, 2014, and will be effective Oct. 14, 2014.

HOW TO PARTICIPATE: Review the final rule when it becomes available

35%



Direct Component (Pot 1)

Before states receive their **equal-share funds**, they must, among other things, develop an implementation plan. Per Treasury's interim final rule, the public must be given at least 45 days to review and comment.

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)

The **Gulf Coast Ecosystem Restoration Council** approved its Final Initial Comprehensive Plan for restoring the Gulf Coast on August 28, 2013. In August 2014, the Council released its guidelines for submitting proposals. Only Council members may submit proposals (the first project submission window will be open until at least Nov. 17, 2014).

HOW TO PARTICIPATE: Submit project ideas to individual Council members; **review and comment** on the project lists when they become available for public comment; **participate** in meetings hosted by Council members

In addition, "appropriate" Council actions and deliberations must be made available to the public "via electronic means" prior to Council votes.

HOW TO PARTICIPATE: Monitor proposed Council actions and deliberations

30%



**Spill Impact
Component
(Pot 3)**



Before receiving **funds based on spill impacts**, Gulf states must develop funding plans that list the projects that will receive grants. Per Treasury’s interim final rule, the public must have at least 45 days to review and comment on the plans. The Council has released a rule that allows states to apply for grants to develop their funding plans. The rule was effective on Aug. 22, 2014; comments were accepted until Sept. 22, 2014.

HOW TO PARTICIPATE: **submit** project ideas to the lead entities in each state; **review and comment** on plans

2.5%

25% interest



**Restoration Science
Program
(Pot 4)**



The National Oceanic and Atmospheric Administration (NOAA) is tasked with establishing the **NOAA RESTORE Act Science Program** to carry out research, observation, and monitoring to support the “long-term sustainability” of Gulf ecosystems and fisheries.

HOW TO PARTICIPATE: While no specific opportunities are identified in the Act, program leads have periodically sought public input on program development and indicated that a draft science plan and environmental assessment will be available for public comment

2.5%

25% interest



**Centers of
Excellence
(Pot 5)**



Each of the Gulf states will receive funds to be used to award competitive grants to Gulf Coast NGOs, consortia, or universities to establish “**Centers of Excellence.**”

HOW TO PARTICIPATE: Per Treasury’s interim final rule, 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

Other Ways to Influence What Happens With RESTORE

There are myriad other ways to make your voice heard besides engaging in formal participation opportunities. These are often important, as it may be difficult to significantly impact a decision if you wait until decision-makers formally ask for your opinion. Some ways you can make your voice heard include:

- Meet with and write letters to members of the Gulf Coast 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”) in your local newspaper
- Lobby an agency or involve a legislator

