



## **Spill Impact Component: State Expenditure Plan Guidelines Updated March 27, 2024**

### **1. Introduction**

The *Resources and Ecosystems Sustainability, Tourist Opportunities and Revived Economies of the Gulf Coast States Act of 2012 (33 U.S.C. § 1321(t) and note)* (RESTORE Act or Act) established the Gulf Coast Ecosystem Restoration Council (Council) as an independent federal entity. Among other duties, the Council is tasked with administering the Act's Spill Impact Component (33 U.S.C. § 1321(t)(3)), under which 30 percent of funds in the Gulf Coast Restoration Trust Fund (Trust Fund) are disbursed to the five Gulf Coast States under an allocation formula established by a Council regulation based on criteria set forth in the RESTORE Act. In order for funds to be disbursed to a State, its administrative agent or the Gulf Consortium of Florida counties, as appropriate, the RESTORE Act requires each State to develop a State Expenditure Plan (SEP) and submit it to the Chairperson for approval. The following Guidelines describe the required elements of a SEP, the process for submitting a SEP, and the standards by which the Chairperson will evaluate a SEP. The Guidelines also describe the requirements for a second type of SEP, a "planning SEP," authorized by the RESTORE Act Spill Impact Component Planning Allocation Interim Final Rule (79 FR 49690).

### **2. SEP Development**

The RESTORE Act describes the entities responsible for developing a SEP for each State. In this document, "State" includes the following:

- **In Alabama, the Gulf Coast Recovery Council established by the RESTORE Act.**
- **In Florida, a consortium of local political subdivisions that includes a minimum of one (1) representative of each affected county.**
- **In Louisiana, the Coastal Protection and Restoration Authority of Louisiana.**
- **In Mississippi, the Office of the Governor or an appointee of the Office of the Governor.**
- **In Texas, the Office of the Governor or an appointee of the Office of the Governor.**

Under the Spill Impact Component Planning Allocation Interim Final Rule, any of the above five entities may submit a planning SEP using up to the statutory minimum allocation to fund planning activities to develop a full SEP describing the projects, programs and activities the State will implement. In order to receive planning funds under the Spill Impact Component Planning Allocation Interim Final Rule, a State must submit a planning SEP for approval by the Chairperson pursuant to Sections 5.3, 6.1, and 6.2 below. The minimal content requirements for a planning SEP are noted below in Section 5.3 below.

### **3. SEP Funds**

*[To be added later: Brief description of allocation of funds under the Act; Reference to allocation regulation]*

### **4. Oil Spill Restoration Impact Funds**

Spill Impact Component funds will be disbursed to States using the formula established by the Council by regulation as mandated by the RESTORE Act at 33 U.S.C. § 1321(t)(3)(A)(ii) and by 40 CFR Part 1800. Each State will submit a SEP for the expenditure of funds that meets the following criteria:

#### **4.1 Eligible Activities**

States should demonstrate how each activity in the SEP:

- Is eligible for funding under the Act;
- Contributes to the overall economic and ecological recovery of the Gulf Coast; and
- Is consistent with the goals and objectives of the Comprehensive Plan.<sup>1</sup>

#### **4.1.1 Eligible Projects Under the RESTORE Act**

The Act contains eleven categories of activities eligible for funding:

1. Restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches and coastal wetlands of the Gulf Coast region.
2. Mitigation of damage to fish, wildlife, and natural resources.
3. Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring.
4. Workforce development and job creation.
5. Improvements to or on State parks located in coastal areas affected by the *Deepwater Horizon* oil spill.

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<sup>1</sup> The goals and objectives may change when the Council updates the Comprehensive Plan, as required by the Act.

6. Infrastructure projects benefiting the economy or ecological resources, including port infrastructure.
7. Coastal flood protection and related infrastructure.
8. Planning assistance.
9. Administrative costs of complying with the Act.
10. Promotion of tourism in the Gulf Coast region, including recreational fishing.
11. Promotion of the consumption of seafood harvested from the Gulf Coast region.

#### **4.1.2 Comprehensive Plan Goals**

The Council adopted five goals in its Comprehensive Plan. Those goals are:

1. Restore and Conserve Habitat – Restore and conserve the health, diversity, and resilience of key coastal, estuarine, and marine habitats.
2. Restore Water Quality – Restore and protect water quality of the Gulf Coast region’s fresh, estuarine, and marine waters.
3. Replenish and Protect Living Coastal and Marine Resources – Restore and protect healthy, diverse, and sustainable living coastal and marine resources.
4. Enhance Community Resilience – Build upon and sustain communities with capacity to adapt to short- and long-term changes.
5. Restore and Revitalize the Gulf Economy – Enhance the sustainability and resiliency of the Gulf economy.

#### **4.1.3 Comprehensive Plan Objectives**

The Council also adopted seven objectives in its Comprehensive Plan. Those objectives are:

1. Restore, Enhance, and Protect Habitats – Restore, enhance, and protect the extent, functionality, resiliency, and sustainability of coastal, freshwater, estuarine, wildlife, and marine habitats. These include barrier islands, beaches, dunes, coastal wetlands, coastal forests, pine savannahs, coastal prairies, submerged aquatic vegetation, oyster reefs, and shallow and deepwater corals.

The types of projects and programs that could be implemented under this Objective include the restoration, enhancement, creation, and protection of important coastal, freshwater, estuarine, and marine habitats, and removal of invasive species. Protection and conservation projects may be implemented through active management, acquisition, voluntary management agreements, protected area management, perpetual management, conservation easements, and other conservation activities.

2. Restore, Improve, and Protect Water Resources – Restore, improve, and protect the Gulf Coast region’s fresh, estuarine, and marine water resources by reducing or treating nutrient and pollutant loading; and improving the management of freshwater flows, discharges to and withdrawals from critical systems.

The types of water resource management projects and programs that could be implemented include implementation of watershed best management practices; improved agricultural and silvicultural management practices; enhanced stormwater and/or wastewater management; improved quality and quantity of freshwater flows, discharges, and withdrawals; sediment runoff management; and other foundational water quality concerns.

3. Protect and Restore Living Coastal and Marine Resources – Restore and protect healthy, diverse, and sustainable living coastal and marine resources including finfish, shellfish, birds, mammals, reptiles, coral, and deep benthic communities.

The types of projects and programs that could be implemented under this Objective may address recovery of threatened and endangered species, overfishing and bycatch, improved fisheries assessments, sustainable resource management of commercially and recreationally important activities (such as fishing, hunting, and wildlife watching), increased resource stocks, invasive and nuisance species management and removal, enforcement, and other protective measures.

4. Restore and Enhance Natural Processes and Shorelines – Restore and enhance ecosystem resilience, sustainability, and natural defenses through the restoration of natural coastal, estuarine, and riverine processes, and/or the restoration of natural shorelines.

The types of projects and programs that could be implemented under this Objective may include: removal of barriers to improve freshwater inflow and fish passage; improved sediment management (*e.g.*, through increased beneficial use, dedicated dredging, and sediment capture structures); restoration of coastal wetlands, restoration of eroded shorelines; river diversions (also known as river re-introduction projects) and other types of hydrologic restoration; natural ridge restoration; implementation of living shoreline techniques; and other restoration techniques that address natural processes and shorelines.

5. Promote Community Resilience – Build and sustain Gulf Coast communities’ capacity to adapt to short- and long-term natural and man-made hazards, particularly increased flood risks associated with sea-level rise and environmental stressors.

Promote ecosystem restoration that enhances community resilience through the re-establishment of non-structural, natural buffers against storms and flooding.

The types of projects and programs that could be implemented under this Objective may address: capacity for local governments, businesses, and community-based organizations to adapt; risk assessments; advance natural resource planning and natural resource recovery planning with locally-driven solutions; long-term land use planning as it relates to the management and sustainability of coastal resources; acquisition and/or preservation of undeveloped lands in coastal high-hazard areas (*e.g.*, as buffers against storm surge and sea level rise); non-structural storm and surge protection; design of incentive-based mitigation programs; engagement with and among local communities and other measures that build community resiliency through ecosystem restoration. Projects and programs that promote community resilience should be tied to ecosystem restoration or protection.

6. Promote Natural Resource Stewardship and Environmental Education – Promote and enhance natural resource stewardship efforts that include formal and informal educational opportunities, professional development and training, communication, and actions for all ages.

The types of projects and programs that could be implemented under this Objective may include: environmental stewardship and education programs tied to Gulf Coast resources that encourage and coordinate the use of existing environmental education and outreach networks and institutions; establish a more effective relationship between research and education communities; and provide meaningful hands-on ecosystem education that includes local, cultural, environmental and economic values with the belief that education will encourage action toward a healthier Gulf Coast. Projects and programs which promote natural resource stewardship and environmental education should be tied to ecosystem restoration or protection.

7. Improve Science-Based Decision-Making Processes – Improve science-based decision-making processes used by the Council.

The types of projects and programs that could be implemented under this Objective may implement or improve: science-based adaptive management and project-level and regional ecosystem monitoring, including the coordination and interoperability of ecosystem monitoring programs; regional database and expert systems used to warehouse ecosystem data; improved ecosystem restoration outcome and impact measurement and reporting; and development of local and regional ecosystem

models to apply the monitoring information gained and address the critical uncertainties related to restoration to adaptively manage and inform Council decision-making processes related to ecosystem investments.

## **4.2 Use of Funds**

### **4.2.1 Cost-sharing or Matching of Funds**

The Act allows a State or coastal political subdivision to use, in whole or part, amounts made available from the Trust Fund under the Spill Impact Component to satisfy the non-federal share of any project or program that is authorized by other federal law and is an eligible activity under the Act. 33 U.S.C. § 1321(t)(3)(F)(i).

The use of Spill Impact Component funds to satisfy the non-federal share of the cost of a project or program does not affect the priority in which other federal funds are allocated or awarded. 33 U.S.C. § 1321(t)(3)(F)(ii).

### **4.2.2 Restrictions on the Use of Funds**

Pursuant to the Act at 33 U.S.C. § 1321(t)(3)(B)(ii), not more than 25 percent of the funds may be used by a State for infrastructure projects for eligible activities 5 and 6 in the above Section 4.1.1. States shall provide a statement that their eligible activities will meet the 25% infrastructure limitation or how they meet the exception described below. For the purposes of these Guidelines, the term “infrastructure” has the same meaning as provided in 31 CFR § 34.2.

#### **Exception:**

A state may propose a SEP that uses more than 25% of its funds for infrastructure planning, if the SEP certifies that:

- Ecosystem restoration needs will be addressed by projects in the proposed SEP; and
- Additional investment in infrastructure is required to mitigate the impacts of the Deepwater Horizon Oil Spill to the ecosystem or economy.

## **4.3 Compliance with Eligible Activities**

Pursuant to the Act, if the Council determines that a State has expended funds received under a SEP on an ineligible activity, the Council will make no additional funds available to that State until the State has deposited in the Trust Fund an amount equal to the amount expended for an ineligible activity, or the Council has authorized the State to expend an equal amount from the State’s own funds for an eligible activity. See also 31 CFR § 34.804.

## **4.4 Incurring Costs before SEP Approval**

The Council shall not disburse any Spill Impact Component funds to a State until it has approved the State's SEP and grant application for a project, except for planning funds distributed pursuant to the Interim Final Rule (79 FR 49690). If a State chooses to begin work on a proposed project before approval, it does so at its own risk.

#### **4.5 Sub-grants and Project Funding**

Only States I may receive Spill Impact Component funds. States, however, may issue sub-grants to other State or local agencies, universities, or other entities so long as such sub-grants and their respective projects are explicitly described in its grant application. Sub-grants are subject to all applicable federal grant regulations.

States may also combine their allocations to fund mutually-beneficial projects. Each recipient, however, must submit a separate application for their specific portion of the work with separate objectives and deliverables; each recipient will receive a separate grant award. The location of all such projects and the funding combinations for the project must be described in the SEP.

#### **4.6 Time Limitation of Funding**

The Act does not provide a time limit for the use of Spill Impact Component funds; however, federal grant law requires grants to have performance periods. Therefore, the Council will issue grants for projects with specific performance periods in accordance with federal law, 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), and the Council's grants process.

### **5. SEPs**

#### **5.1 SEP Submittals**

Each SEP shall be sent to the Council at:

Gulf Coast Ecosystem Restoration Council  
500 Poydras Street, Suite 1117  
New Orleans, LA 70113

[SEPSubmissions@restorethegulf.gov](mailto:SEPSubmissions@restorethegulf.gov)

#### **5.2 SEP Required Components**

The Act at 33 U.S.C. § 1321(t)(3)(B), lists the requirements that each SEP must meet for the disbursement of Spill Impact Component funds, in accordance with the formula developed under § 1321(t)(3)(A). The Chairperson will review each SEP to ensure that it:

1. Meets one or more of the eligible activities under § 1321(t)(1)(B)(i) and/or (ii) and administrative costs limitations under § 1321 (t)(1)(B)(iii).

2. Contributes to the overall economic and ecological recovery of the Gulf Coast.
3. Takes into consideration the Comprehensive Plan and is consistent with the goals and objectives of the Comprehensive Plan.
4. Does not use more than 25% of the funds disbursed for eligible activities 5 and 6 in the above Section 4.1.1, unless the infrastructure limitation exception is met.

#### **5.2.1 Designated State Agency**

Each SEP will be developed and submitted by the designated State or government identified above in Section 2. 33 U.S.C. § 1321(t)(3)(B)(iii). A point of contact for the designated agency and their contact information (title, address, telephone number, fax number, and e-mail address) must also be provided.

#### **5.2.2 State Certification of RESTORE Act Compliance**

Each SEP must include a certification from the Council State member that all projects, programs, and activities included in the SEP meet the requirements listed in Sections 4.1 and 4.2.2. The certification should describe the process used to verify that the projects, programs, and activities meet these requirements. A statement should be included in the certification that issues crossing Gulf State boundaries have been evaluated to ensure that a comprehensive, collaborative ecological and economic recovery is furthered by the SEP. See 31 CFR § 34.503(b)(5).

#### **5.2.3 Public Participation Statement**

A SEP must include a statement describing the process the State used to ensure appropriate public and tribal participation and transparency in the project, program, and activity selection process. Under the Treasury regulations, the SEP must be made available for public review and comment in accordance with 31 CFR § 34.503(g). Each project included in the SEP may be included only after consideration of all meaningful input from the public. 31 CFR § 34.503(b)(4) and (g).

#### **5.2.4 Financial Integrity**

Each State should include a description of the financial controls and other financial integrity mechanisms that it will use to assure the public and Congress that funds have been managed appropriately to further the purposes of the Act. The SEP must also describe the processes that the State used to prevent conflicts of interest in the development and implementation of its SEP. 31 CFR § 34.503(b)(3).

#### **5.2.5 Proposed Project Lists**



Each State must identify projects, programs or activities in its SEP. [*To be added later: Appendix provides recommended form for list.*] The SEP must identify the following information for each project:

- the title of each project, program, or activity
- a description of project, program, or activity (need for, purpose and objectives of project, program, or activity)
- a description of how the project, program, or activity is eligible for funding and meets statutory requirements
- location and how the project, program, or activity is being carried out in the Gulf Coast Region
- the estimated cost of each project, program, or activity (i.e., a budget), including a delineation of planning versus implementation costs
- the percentage of funds that will be used for infrastructure in each project, program, or activity
- major milestones
- projected start and completion dates
- criteria the State will use to evaluate the success of each project, program, or activity in helping to restore and protect the Gulf Coast Region impacted by the *Deepwater Horizon* oil spill
- a description of the mechanisms that will be used to monitor and evaluate the outcomes of the project, program, or activity
- a description of the best available science, as applicable, that informed the State's selection of the project, program, or activity
- to the extent known, a description of any certain or prospective collaborations or partnerships to be used or created through the project, program, or activity, or selection process
- to the extent known, a description of any additional resources that will be leveraged to meet the goals of the SEP, including those related to specific projects, programs, or activities
- if funding has been requested from other sources, the source of the funding, amount of requested funding, and the current status of the request

States may include more projects in the SEP than there is available funding. It is within the discretion of the State to determine which of the projects included in the SEP will be funded at any time. The State will signal its selection of particular projects to fund by applying for a grant for any particular project, or combination of projects. The State may at a later time withdraw a grant application or cancel a grant award, and replace the project with any other unfunded project from the approved SEP.

### **5.3 Content Requirements for a Planning SEP**

The content requirements of a planning SEP submitted under the RESTORE Act Spill Impact Component Planning Allocation Interim Final Rule are different from those of a full SEP that will implement projects, programs or activities. Many of the content requirements described elsewhere in Section 5 of these Guidelines (for example, the infrastructure limitation in Section 4.2.2) are relevant only when projects, programs or activities are the subject of the full SEP. As such, the following content requirements apply to a planning SEP:

- The planning SEP will be developed by the designated State or government identified above in Section 2. 33 U.S.C. § 1321(t)(3)(B)(i). A point of contact for the designated agency and their contact information (title, address, telephone number, fax number, and e-mail address) must also be provided.
- A planning SEP shall be sent by the appropriate Council member to the Council at Gulf Coast Ecosystem Restoration Council, 500 Poydras Street, Suite 1117 New Orleans, LA 70113 or [SEPsubmissions@restorethegulf.gov](mailto:SEPsubmissions@restorethegulf.gov).
- The planning SEP must include a certification that it deals exclusively with developing a full SEP.
- A description of the financial controls and other financial integrity mechanisms that it will use to assure the public and Congress that funds have been managed appropriately to further the purposes of the RESTORE Act. This could include a description of the State's automated financial system, audit mechanisms, etc. The planning SEP must also briefly describe the processes that the State used to prevent conflicts of interest in the development and implementation of its planning SEP.
- A certification that the planning SEP meets the requirements listed in Section 4.1.

## **6. SEP Review and Approval Process**

### **6.1 SEP Review**

Council staff will review a SEP (including a planning SEP authorized by the RESTORE Act Spill Impact Component Planning Allocation Interim Final Rule) for completeness, adequacy, and the consistency of proposed projects to the identified eligible activities (Section 4.1), and submit a recommendation for approval or disapproval to the Chairperson for consideration. The recommendation will detail the staff's evaluation and reasons for the recommendation, including whether the plan meets all requirements set forth in these guidelines, the Treasury regulations, and the RESTORE Act. Within 60 days after the submission of a SEP or planning SEP, the Chairperson shall approve or disapprove the SEP or planning SEP (Section 6.2).

The Chairperson's decision to approve or disapprove will be based solely on the completeness of the SEP or planning SEP and on the four criteria described in Sections 4.1 and 4.2.2 (the

infrastructure limitation). In evaluating the SEP or planning SEP based on the four criteria, the Chairperson will consider any comments received from a Council member pursuant to Section 6.1.2 below and the recommendation of the Council staff on the following:

- **Criterion 1: Meets one or more of the eligible activities under the Act:** In determining whether the SEP includes only eligible projects, the Council staff will determine whether every project included in the SEP is properly categorized as one of the eligible activities described in Section 4.1.1. For a planning SEP, the Council staff will evaluate whether the project described meets the definition of “planning assistance” provided in 31 CFR § 34.2 and the more limited definition provided in the RESTORE Act Spill Impact Component Planning Allocation Interim Final Rule.
- **Criterion 2: Contributes to the overall economic and ecological recovery of the Gulf Coast:** In determining whether the SEP contributes to the overall economic and ecological recovery of the Gulf Coast, the Council staff will consider two things. First, whether the projects are carried out in the Gulf Coast Region based on the standard established in the Act and the Treasury regulations. This determination is made when, in the reasonable judgment of the Council staff, each severable part of the activity is primarily designed to restore or protect that geographic area. Second, the Council staff will consider the compatibility of each SEP with other States’ SEPs. This determination involves evaluating issues that cross Gulf State boundaries to ensure that a comprehensive, collaborative ecological and economic recovery is furthered by each SEP. It is presumed that a planning SEP will meet this criterion if it describes activities related to drafting a full SEP.
- **Criterion 3: Takes into consideration the Comprehensive Plan and is consistent with the goals and objectives of the Comprehensive Plan:** The Council staff will determine whether the SEP is consistent with the goals and objectives of the Comprehensive Plan. The Council staff will evaluate whether each project contained in the SEP will further one or more of the five goals discussed at Section 4.1.2 and will look to see if the projects will be implemented in a manner that does not have a negative impact, direct or indirect, on the Gulf Coast ecosystem restoration projects and programs selected for implementation by the Council under the Comprehensive Plan. It is presumed that a planning SEP will meet this criterion if it describes activities related to drafting a full SEP.
- **Criterion 4: 25% infrastructure limitation:** In determining whether the SEP meets the 25% infrastructure limitation, the Council staff will compare the projects as described by the State to the infrastructure definition in the Department of Treasury’s regulations implementing the RESTORE Act (31 CFR § 34.2) and ensure the total amount of all

infrastructure projects either meets the limitation requirements or exemption requirements. A planning SEP should not contain any infrastructure projects.

### **6.1.1 Voluntary Withdrawal of a SEP**

At any point before a final decision by the Chairperson to approve or disapprove a SEP, the State may voluntarily withdraw a submitted SEP for any reason. The submission of a revised SEP after a State has voluntarily withdrawn a SEP is subject to the same review and approval process described in this Section (6) and resets the 60-day review window described in Sections 5, 6.1, and 6.2. Whether the revised SEP must go through an additional 45-day public comment period (Section 5.2.3) is a determination the State should make depending on how substantive the revisions are when compared with the draft SEP that was originally provided to the public for comment.

### **6.1.2 Comments from Council Members on a SEP**

In the first 20 days of the Chairperson's 60-day review window, a Council member may submit comments to the Chairperson for consideration in the Chairperson's review. Such comments should be limited to the completeness of a submitted SEP and the four criteria described in Sections 4.1 and 4.2.2.

### **6.1.3 SEP Chairperson Review Comments**

If the Chairperson does not approve a SEP, the Chairperson will provide detailed, written comments to the State that are intended to assist the State in developing an approvable SEP. This guidance will, at a minimum, include a list of incomplete or missing information in the SEP.

### **6.1.4 Re-submission and Review of Revised SEPs**

If the Chairperson disapproves a SEP, the State may revise and resubmit the SEP.<sup>2</sup> The revised SEP should include a list of all changes made from the original SEP and indicate text changes (e.g., in tracked changes). Following its review, Council staff will inform the State whether the revised SEP addresses all of the SEP review comments sufficiently and make a recommendation to the Chairperson on approval or disapproval. Within 60 days of re-submission, the Chairperson shall vote on the revised SEP (Section 6.2).

A State's decision to re-submit a SEP in the event the Chairperson disapproves a submitted SEP will not preclude it from exercising its right to judicial review (Section 6.1.5).

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<sup>2</sup> In this Section a "revised SEP" refers to resubmitting a SEP after disapproval by the Chairperson or after voluntarily withdrawing a SEP from the review process (Section 6.1.1). Modifying or amending an already approved State Expenditure is discussed later in this Guidance. See Sections 6.3 (Modifications) and 6.4 (Amendments) below.

### **6.1.5 Judicial Review**

If the Chairperson disapproves or fails to take action on the submission of a SEP or SEP revision within 60 days of submission, the State may obtain expedited judicial review within 90 days of that decision in a United States district court, of appropriate jurisdiction and venue, located within the State seeking review. 33 U.S.C. § 1321(t)(3)(E).

### **6.1.6 Public Availability of Proposed SEPs**

Council staff will make proposed SEPs and revisions available to the public for review by posting the SEP on the Council's website. Council staff will alert Council members immediately upon receipt of a proposed SEP.

## **6.2 SEP Approval**

### **6.2.1 Council Staff Recommendation and Vote Requirement**

Following its review of a SEP or revised SEP, Council staff will send to the Chairperson a determination indicating the completeness of the SEP and any potential nonconformance with the criteria in Section 4.1 or 4.2.2. The Chairperson, after review of the staff recommendation, shall vote on approval of the SEP. The certification of the State member (Section 5.2.2 or 5.3) and the affirmative vote of the federal Chairperson of the Council shall result in the approval of the SEP on behalf of the Council. 33 U.S.C. § 1321(t)(2)(C)(vi)(III).

### **6.2.2 Notification of Decision**

The Chairperson will provide the State with a letter informing it of the Chairperson's decision. The Council will make all approved SEPs available to the public by posting approved SEPs on the Council's website.

### **6.2.2 Project Funding Approval**

Chairperson approval of a SEP shall not be construed as final funding approval of the individual projects and programs in that SEP. Individual projects and programs will be given final funding approval through the grant application and approval process established by the Council.

## **6.3 Modifications to an Approved SEP**

Pursuant to the 2015 Department of the Treasury Regulations for the Gulf Coast Restoration Trust Fund (31 CFR Part 34), a material modification of an approved SEP requires amendment of the SEP. A SEP amendment is not required for a non-material modification.

SEP sponsors should consult with Council staff on a case-by-case basis to determine whether a proposed change to a SEP project or program constitutes a material modification and discuss any needed modifications to the associated grant.

### **6.3.1 Material Modification to an Approved SEP**

A material modification of a SEP requires demonstration of compliance with the RESTORE Act and applicable Treasury regulations, consistency with the Comprehensive Plan, and/or approval of Spill Impact Component funding. For example, when adding a new project or program to a SEP, the sponsor must describe how the proposed activity meets one of the eleven eligible activities set forth in the RESTORE Act, among other tests. Material modifications require a SEP amendment and include:

- Approval of a new activity (i.e., a new stand-alone project or new program);
- Approval of Spill Impact Component funds (i.e., amounts from Trust Fund that were not previously approved in a SEP or SEP amendment); and/or
- Fundamental alteration of the SEP or approved projects and programs, including changes in type, primary eligible activity, goals(s) and objective(s), or other major elements.

SEP Amendments may focus on the change only, but must be submitted, reviewed, and approved through the same process described in Sections 5, 6.1, and 6.2 above.

### **6.3.2 Non-Material Modifications to an Approved SEP**

Non-material modifications do not require a SEP amendment but may necessitate a grant amendment. The SEP sponsor should inform the public of non-material modifications of approved projects and programs, other than those of a de minimis nature. Non-material modifications include:

- Increases or decreases in approved SEP project and program benefits (outputs);
- Reallocation of previously-approved funds between approved SEP projects and programs; and
- Other changes that do not fundamentally alter the SEP or approved projects and programs.

When funding reallocations are proposed, consultation with Council staff is required in order to enable staff to continue to track SEP funding amounts and ensure that the reallocation does not exceed the statutory infrastructure funding cap of 25%. When approved funds are being reallocated, SEP sponsors should provide staff with an updated SEP funding table showing the

amounts allocated to each approved project and program (see section V of the SEP template appendix).

The identification and selection of projects within approved SEP programs does not require a SEP amendment, provided that such projects are consistent with the type, primary eligible activity, goals and objectives, and other major elements of the program, and that no additional Spill Impact Component funding approval is being requested.<sup>3</sup> The public should be informed of specific projects identified and selected under approved SEP programs.

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<sup>3</sup> Sponsors of SEP programs confirm the consistency of proposed projects with the associated program in the award application for the given project. In cases where an award is being amended to add a new project within a program, this consistency is documented in the workplan for the amendment.

## APPENDIX: SEP TEMPLATE

*[Insert the Agency Cover Letter on this Page – Cover letter transmits the SEP for review by Council and Staff. The letter should include information for the submitting agency's POC (name, title, address, telephone number, fax number, and email address), and must be signed by the authorized representative for the State member. The Gulf Consortium may submit a separate cover letter in addition to that of the State of Florida.]*



**APPENDIX: SEP TEMPLATE**

[Insert Applicant Name] STATE EXPENDITURE PLAN

Submitted Pursuant to the

Spill Impact Component of the  
RESTORE Act 33 U.S.C. § 1321(t)(3)

**APPENDIX: SEP TEMPLATE**

**Contents**

- I. State Certification of RESTORE Act Compliance..... 4
- II. Public Participation Statement..... 5
- III. Financial Integrity..... 6
- IV. Overall Consistency with the goals and objectives of the Comprehensive Plan..... 7
- V. Proposed Projects, Programs and Activities..... 8
- [Project A]..... 9
- [Project B]
- etc.....

## APPENDIX: SEP TEMPLATE

### I. State Certification of RESTORE Act Compliance

*[Provide a certification statement from the State Council member that all projects, programs and activities included in the SEP are eligible activities as defined by the RESTORE Act; the projects, programs and activities in the SEP contribute to the overall economic and ecological recovery of the Gulf Coast; and the SEP is consistent with the goals and objectives of the current Comprehensive Plan adopted by the Council. The statement should describe the process used to verify that the project, programs, and activities meet these requirements. There should also be a statement that the issues crossing Gulf State boundaries have been evaluated to ensure that a comprehensive, collaborative ecological and economic recovery is furthered by the SEP. The statement should also include a certification that all projects, programs, and activities in the SEP are based on the Best Available Science as defined in the RESTORE Act.]*

*States must also provide a statement that their eligible activities will meet the 25% infrastructure limitation or, if more than 25% of the funds under the SEP are proposed for infrastructure projects for eligible activities 6 and 7, how they meet the exceptions. For SEP purposes, the term “infrastructure” has the same meaning as provided in 31 CFR § 34.2. The list of eligible activities is provided in Section 4.1.1 of the Oil Spill Impact Component: State Expenditure Plan Guidelines (Submittal Guidelines), and the exceptions are described in Section 4.2.2.]*

## APPENDIX: SEP TEMPLATE

### **II. Public Participation Statement**

*[Describe the process the State used to ensure appropriate public and tribal participation and transparency in the project, program, and activity selection process in conformity with 31 CFR § 34.503(g).]*

## APPENDIX: SEP TEMPLATE

### III. Financial Integrity

*[Describe the financial controls and mechanisms that will be used to assure the public and Congress that funds have been managed appropriately to further the purposes of the RESTORE Act. Also, describe the processes the state used to prevent conflicts of interest in the development of the SEP, and will use with regard to its implementation.]*

## APPENDIX: SEP TEMPLATE

### **IV. Overall Consistency with the goals and objectives of the Comprehensive Plan**

*[Broadly describe how the proposed expenditure plan is consistent with and supports one or more of the goals and objectives of the Comprehensive Plan. There will be a separate opportunity in the grant stage of the SEP process to align each proposed project or program with the goals and objectives of the Comprehensive Plan.]*

**APPENDIX: SEP TEMPLATE**

**V. Proposed Projects, Programs and Activities**

*[Populate the table below with the list of projects that will be funded by the expenditure plan. Provide the project title and the cost estimate for each. The term “project” will be used hereafter to mean an individual project, program or activity.]*

	<b>Project Title</b>	<b>Estimated Cost</b>	<b>Infrastructure (yes/no)</b>	<b>Start Date</b>	<b>End Date</b>	<b>Primary Eligible Activity number(s) 1-11; see section 4.1.1 of Submittal Guidelines]</b>	<b>Informed by Best Available Science (yes/no)</b>
<b>1</b>	<i>e.g., Canal backfills</i>	<i>\$8,000,000</i>	<i>No</i>	<i>1/12/2017</i>	<i>8/30/2025</i>	<i>1</i>	<i>Yes</i>
<b>2</b>							
<b>3</b>							
<b>4</b>							
<b>5</b>							
<b>6</b>							
<b>7</b>							

## APPENDIX: SEP TEMPLATE

### [Title - Project A]

*[For each project in the SEP, the applicant must address each of the following items separately. The length of the project information provided below will vary, depending upon the complexity of the project. Note that much more detailed project information will be required in the grant application requesting funding for each project. Suggested topical headings are provided below, based upon the required information from Section 5.2.5 of the Submittal Guidelines. Copy and paste the following text to populate the required information for each project. ]*

#### **1. Project Description/Summary**

a. *[Describe the project, including the:*

*1) need for, purpose and objectives;*

*2) location of the project and how the project is being carried out in the Gulf Coast Region;*

*3) expected start and end dates for the project.*

*4) Optional: Any other information that describes the project, such as what entity will execute the project, how the project will be executed, etc.*

b. *[Explain how the project contributes to the overall economic or ecological recovery of the Gulf Coast, or both.]*

**2. Eligibility and Statutory Requirements** *[Describe how the project is eligible for funding and meets statutory requirements. Identify the primary eligible activity from the eleven found in the RESTORE Act to which this project aligns. The applicant may also choose secondary or tertiary eligible activities, but be sure it is clearly identified as such. See the RESTORE Act or section 4.1.1 of the Submittal Guidelines for a list of eligible activities.]*

**3. Comprehensive Plan Goals and Objectives** *[Identify both the goals AND the objectives of the current version of the Comprehensive Plan that this project supports. Each project must support at least one goal and one objective.]*



## APPENDIX: SEP TEMPLATE

**4. Major Milestones** *[Identify and describe the major milestones for the project. Ideally, there should be several milestones, each with discrete objectives and deliverables.*

*E.g., Milestone 1 – engineering and design.*

*Milestone 2 – construction contract awarded,*

*Milestone 3 – construction complete, Milestone*

*4 - .....]*

**5. Success Criteria/Metrics/Outcomes** *[Explain the criteria that the State will use to evaluate the success of each project in helping to restore and protect the Gulf Coast Region.]*

**6. Monitoring and Evaluation** *[Describe the mechanism(s) that will be used to monitor and evaluate the outcomes of the project.]*

**7. Best Available Science** *[Describe the best available science, as applicable, that informed the State's selection of the project.]*

### **8. Budget/Funding**

a. *[Provide the estimated cost of the project (i.e., simple budget) and amount to be requested from Oil Spill Impact Component funds, including a delineation of planning versus implementation costs. Note that the funding available under a grant award cannot exceed the amount described in the SEP for a specific project. The amount of specificity required for this budget is not as detailed as will be required at the grant stage; this simple budget is akin to a reasonability check only.]*

b. *[If funding for the project has been requested from other sources, describe the source of the funding, amount of requested funding, and the current status of the request.]*

**10. Partnerships/Collaboration (if applicable)** *[To the extent known, describe any certain or prospective collaborations or partnerships to be used or created through the project or selection process.]*

**11. Leveraged Resources (if applicable)** *[To the extent known, describe any additional resources that will be leveraged to meet the goals of the State Expenditure Plan, including those related to the specific project.]*

**12. Funds Used As Non-Federal Match (if applicable)** *[If Oil Spill Impact Component funding will be used as a non-Federal match for another funding source, indicate the agency and program where this match will be applied.]*

**13. Other** *[e.g., funding announcement specific requirements; please refer to the Council's funding announcement for any additional requirements and address them here.]*

## APPENDIX: SEP TEMPLATE

*[Repeat the template with the required information for each project.]*