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September 2, 2014

The Honorable Ron Wyden
Chairman
The Honorable Orrin G. Hatch
Ranking Member
Committee on Finance
United States Senate

The Honorable Dave Camp
Chairman
The Honorable Sander M. Levin
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of the Treasury: Department of the Treasury Regulations for the Gulf Coast Restoration Trust Fund*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Treasury (Treasury) entitled "Department of the Treasury Regulations for the Gulf Coast Restoration Trust Fund" (RIN: 1505-AC44). We received the rule on August 15, 2014. It was published in the *Federal Register* as an interim final rule on August 15, 2014. 79 Fed. Reg. 48,039.

The interim final rule concerns the investment and use of amounts deposited in the Gulf Coast Restoration Trust Fund, which was established in the Treasury of the United States by the Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act).

Enclosed is our assessment of Treasury's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that Treasury complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Heidi Cohen
Senior Counsel for Regulatory Affairs
Department of the Treasury

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY
ENTITLED
"DEPARTMENT OF THE TREASURY REGULATIONS
FOR THE GULF COAST RESTORATION TRUST FUND"
(RIN: 1505-AC44)

(i) Cost-benefit analysis

Treasury states that the interim final rule deals with the transfer of amounts in the Gulf Coast Ecosystem Trust Fund. According to Treasury, on March 21, 2013, \$323,392,877 was deposited into the trust fund and invested in Treasury securities, and a second deposit was made on March 5, 2014, in the amount of \$329,641,425. The amount in the trust fund is expected to increase due to investments and additional deposits of civil penalties from ongoing litigation. This interim final rule helps implement the Act, which is generally focused on the environmental restoration and economic recovery of the Gulf Coast region. Treasury states the ecosystem and resources are vitally important to the United States economy, contributing about 30 percent of the nation's gross domestic product in 2009. The region provides more than 90 percent of the nation's offshore oil and natural gas production and one-third of the nation's seafood. The region also has significant recreation and tourism.

On April 20, 2010, the largest oil spill in United States history occurred, exacerbating the effects of previous natural disasters. Before the well was capped, millions of barrels of crude oil were released, closing tens of thousands of square miles of federal waters for fishing while contaminating hundreds of miles of shoreline, bayous, bays, and islands with oil and chemicals used during response activities. The released oil dispersed over Gulf waters, wildlife, and coasts, causing extensive damage to marine and wildlife habitats, fishing, and tourism. This interim final rule describes procedures concerning the expenditure of amounts from the trust fund, including compliance and auditing requirements. The amounts made available from the trust fund will continue efforts that provide for the long-term health of the ecosystems and economy of the Gulf Coast region.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

Treasury certified that this rule will not have a significant economic impact on a substantial number of small entities, and thus no initial regulatory flexibility analysis was required. Treasury stated that the interim final rule describes procedures concerning the allocation and expenditure of amounts from the trust fund and that most of these requirements come from the RESTORE Act itself or other federal law. Treasury invited comments on this certification and concluded that the rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

Treasury believes that the regulatory impact assessment provided has the analysis required by the Unfunded Mandates Reform Act. Treasury states that if the rule is adopted, it may have an annual effect on the economy of \$100 million or more. The Regulatory Impact Assessment prepared by Treasury for this regulation was provided.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

Treasury published a notice of proposed rulemaking requesting comment on the proposed rule on September 6, 2013 (78 Fed. Reg. 54,801). Treasury stated that it issued this rule as an interim final rule because it believes the rulemaking would benefit from additional public comment on previously proposed provisions as well as provisions adopted in this interim final rule. Further, Treasury believes that it would be contrary to the public interest to delay implementation of the rule pending further public comment because of the overwhelming public interest in making funds available under the Act. Treasury received over 1,200 comment letters on the proposed rule from individuals, public interest groups, state and local governments, and research institutions. Treasury is accepting comments on the interim final rule for 30 days after publication and will publish a final rule after considering any comments.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

Treasury states that the collections of information contained in the notice of proposed rulemaking were submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. § 3507(d)) and approved under control number 1505-0250. Treasury estimated that the total annual burden hours for applications, reporting, and recordkeeping for the Direct Component and the Centers of Excellence Research Grants Program would be 6,864 hours. The federal entities that administer the Comprehensive Plan Component, Spill Impact Component, and the NOAA RESTORE Act Science Program will submit their estimates separately to OMB. The public will have the opportunity to comment on those information collection requirements at that time.

Statutory authorization for the rule

The interim final rule is authorized by 31 U.S.C. § 301, 31 U.S.C. § 321, and 33 U.S.C. § 1251 et seq.

Executive Order Nos. 12,866 and 13,563 (Regulatory Planning and Review)

Treasury determined that this interim final rule is a significant regulatory action as defined in Executive Order 12,866, as supplemented by Executive Order 13,563, and the interim final rule was reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

The interim final rule does not address the Order.