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February 12, 2016

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

The Honorable Kevin Brady
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 entitled “Department of the Treasury Regulations for the Gulf Coast Restoration Trust Fund” (RIN: 1505-AC44). We received the rule on February 1, 2016. It was published in the *Federal Register* as a final rule on December 14, 2015. 80 Fed. Reg. 77,239.

The 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).

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). This final rule has a stated effective date of February 12, 2016. We received the rule on February 1, 2016, and it was published in the *Federal Register* on December 14, 2015. Therefore, the final rule does not have the required 60-day delay in its effective date.

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, other than the 60-day delay requirement, 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

The final rule does not address costs and benefits of the final rule, although Treasury does state that 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 region.

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

Treasury certified that the final rule will not have a significant impact on a substantial number of small entities, and stated that no regulatory flexibility analysis is required. Treasury also stated that small entities will incur costs to develop the plans and projects described in the rule, but that these costs arise from requirements in the RESTORE Act and not Treasury regulations.

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

Treasury states that it believes the regulatory impact assessment referenced in the preamble of the final rule provides the analysis required by the Unfunded Mandates Act. Treasury stated that the Department adopted, without revision, the regulatory impact assessment published with the comprehensive interim final rule because the final rule does not adopt changes that require updates in the analysis. In that interim rule, Treasury stated that if the rule is adopted, it may have an annual effect on the economy of \$100 million or more.

(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), and an interim final rule on August 15, 2014. 79 Fed. Reg. 48,039. Treasury accepted public comment on the comprehensive interim final rule for 30 days. Treasury then published a second interim final rule on October 10, 2014, which allocated amounts to Louisiana parishes under one RESTORE Act component, called the Direct Component. 79 Fed. Reg. 61,236. Both interim final rules took effect on October 14, 2014. Treasury received 21 unique comment letters on the comprehensive interim final rule, and no comments on the interim final rule that allocated funds to the Louisiana parishes. According to Treasury, several commenters repeated suggestions made on the proposed rule issued in September 2013.

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

Treasury states that the collections of information contained in the comprehensive interim final rule were submitted to the Office of Management and Budget (OMB) for review in accordance with PRA, and approved under control number 1505–0250. Treasury states that the final rule does not contain any new collections of information. Under PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

Statutory authorization for the rule

The final rule is promulgated under the authority of 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 rule finalizes without significant change a comprehensive interim final rule published on August 15, 2014, that was designated as economically significant for purposes of Executive Order 12,866. The Department stated that it adopted, without revision, the regulatory impact assessment published with the comprehensive interim final rule at 79 Fed. Reg. 48,052 because the final rule does not adopt changes that require updates in the analysis. Treasury also determined that the final rule is a significant regulatory action as defined in Executive Order 12,866, as supplemented by Executive Order 13,563, and the final rule was reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

The final rule does not address the Order.