



Oil Spill Impact Component: State Expenditure Plan Guidelines

1. Introduction

The Resources and Ecosystems Sustainability, Tourist Opportunities and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act) (Pub. L. No. 112-141, 126 Stat. 405, 588-607), established the Gulf Coast Ecosystem Restoration Council (Council) as an independent federal entity. Among other duties, the Council is tasked with administering the Oil Spill Restoration Impact Allocation Component of the RESTORE Act under which 30 percent of funds in the Gulf Coast Restoration Trust Fund (Trust Fund) are disbursed to the five Gulf Coast States based on an allocation formula established by the Council by regulation based on criteria in the RESTORE Act. In order for funds to be disbursed to a State, their administrative agent, or the Gulf Consortium of Florida counties, as appropriate, the RESTORE Act requires each State to develop a State Expenditure Plan and submit it to the Chairperson for approval. The following Guidelines describe the required elements of a State Expenditure Plan (or SEP), the process for submitting a State Expenditure Plan, and the standards by which the Chairperson will evaluate a State Expenditure Plan. The Guidelines also describe the requirements for a second type of State Expenditure Plan, a “planning State Expenditure Plan,” authorized by the RESTORE Act Spill Impact Component Planning Allocation Interim Final Rule (79 FR 49690).

2. State Expenditure Plan Development

The RESTORE Act describes the entities responsible for developing a State Expenditure Plan for each State. In this document, “State” shall include the following:

- **In Alabama, the Gulf Coast Recovery Council established by the RESTORE Act.**
- **In Florida, a consortia 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, as approved by the Board.**
- **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 RESTORE Act Spill Impact Component Planning Allocation Interim Final Rule, any of the above five entities may submit a planning State Expenditure Plan using up to the statutory minimum allocation to fund planning activities to develop a full State Expenditure Plan describing the projects, programs and activities the State will implement. In order to receive planning funds under the RESTORE Act Spill Impact Component Planning Allocation Interim Final Rule, a State must submit a planning State Expenditure Plan for approval by the Chairperson pursuant to Sections 5.3, 6.1, and 6.2 below. The minimal content requirements for a planning State Expenditure Plan are noted below in Section 5.3 below.

3. State Expenditure Plan Funds

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

4. Oil Spill Restoration Impact Funds

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

4.1 Eligible Activities

States should demonstrate how each activity in the State Expenditure Plan:

- Is eligible for funding under the RESTORE 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.¹

4.1.1 Eligible Projects Under the RESTORE Act

The RESTORE 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.

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

5. Improvements to or on State parks located in coastal areas affected by the Deepwater Horizon oil spill.
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 RESTORE Act allows a State or coastal political subdivision to use, in whole or part, amounts made available from the Trust Fund under the Oil Spill Restoration Impact Allocation 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 Oil Spill Impact 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 RESTORE Act, 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 6 and 7 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 State Expenditure Plan that uses more than 25% of its funds for infrastructure planning, if the State Expenditure Plan certifies that:

- Ecosystem restoration needs will be addressed by projects in the proposed State Expenditure Plan; 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 State Expenditure Plan 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 State Expenditure Plan Approval

The Council shall not disburse any Oil Spill Impact funds to a State until it has approved the State's State Expenditure Plan 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 shall receive Oil Spill Impact 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 State Expenditure Plan.

4.6 Time Limitation of Funding

The Act does not provide a time limit for the use of Oil Spill Impact 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. State Expenditure Plans

5.1 State Expenditure Plan Submittals

Each State Expenditure Plan shall be sent to the Council at:

Gulf Coast Ecosystem Restoration Council
500 Poydras Street, Suite 1117
New Orleans, LA 70130

SEPsubmissions@restorethegulf.gov

5.2 State Expenditure Plan Required Components

The RESTORE Act, 33 U.S.C. § 1321(t)(3)(B), lists the requirements that each State Expenditure Plan must meet for the disbursement of Oil Spill Impact Allocation Funds, in accordance with the formula developed under § 1321(t)(3)(A). The Chairperson will review each State Expenditure Plan 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 6 and 7 in the above Section 4.1.1, unless the infrastructure limitation exception is met.

5.2.1 Designated State Agency

Each State Expenditure Plan 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 State Expenditure Plan must include a certification from the State Council member that all projects, programs, and activities included in the State Expenditure Plan 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 State Expenditure Plan. See 31 CFR § 34.503(b)(5).

5.2.3 Public Participation Statement

A State Expenditure Plan 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 State Expenditure Plan must be made available for public review and comment in accordance with 31 CFR § 34.503(g). Each project included in the State Expenditure Plan 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 RESTORE Act. The State Expenditure Plan must also describe the processes that the State used to prevent conflicts of interest in the development and implementation of its State Expenditure Plan. 31 CFR § 34.503(b)(3).

5.2.5 Proposed Project Lists

Each State must identify projects, programs or activities in its State Expenditure Plan. [*To be added later: Appendix provides recommended form for list.*] The State Expenditure Plan 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 State Expenditure Plan, 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 State Expenditure Plan than there is available funding. It is within the discretion of the State to determine which of the projects included in the State Expenditure Plan 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 State Expenditure Plan.

5.3 Content Requirements for a Planning State Expenditure Plan

The content requirements of a planning State Expenditure Plan submitted under the RESTORE Act Spill Impact Component Planning Allocation Interim Final Rule are different than those of a full State Expenditure Plan 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 State Expenditure Plan. As such, the following content requirements apply to a planning State Expenditure Plan:

- The planning State Expenditure Plan 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 State Expenditure Plan 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.
- The planning State Expenditure Plan must include a certification that it deals exclusively with developing a full State Expenditure Plan.
- 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 State Expenditure Plan must also briefly describe the processes that the State used to prevent conflicts of interest in the development and implementation of its planning State Expenditure Plan.
- A certification that the planning State Expenditure Plan meets the requirements listed in Section 4.1.

6. State Expenditure Plan Review and Approval Process

6.1 State Expenditure Plan Review

Council staff will review a State Expenditure Plan (including a planning State Expenditure Plan 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 of the submission of a State Expenditure Plan or planning State Expenditure Plan, the Chairperson shall approve or disapprove the State Expenditure Plan or planning State Expenditure Plan (Section 6.2).

The Chairperson's decision to approve or disapprove will be based solely on the completeness of the State Expenditure Plan or planning State Expenditure Plan and on the four criteria described in Sections 4.1 and 4.2.2 (the infrastructure limitation). In evaluating the State Expenditure Plan or planning State Expenditure Plan 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 State Expenditure Plan includes only eligible projects, the Council staff will determine whether every project included in the State Expenditure Plan is properly categorized as one of the eligible activities described in Section 4.1.1. For a planning State Expenditure Plan, 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 State Expenditure Plan 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 State Expenditure Plan with other States' State Expenditure Plans. This determination involves evaluating issues that cross Gulf State boundaries to ensure that a comprehensive, collaborative ecological and economic recovery is furthered by each State Expenditure Plan. It is presumed that a

planning State Expenditure Plan will meet this criterion if it describes activities related to drafting a full State Expenditure Plan.

- **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 State Expenditure Plan is consistent with the goals and objectives of the Comprehensive Plan. The Council staff will evaluate whether each project contained in the State Expenditure Plan 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 State Expenditure Plan will meet this criterion if it describes activities related to drafting a full State Expenditure Plan.
- **Criterion 4: 25% infrastructure limitation:** In determining whether the State Expenditure Plan 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 State Expenditure Plan should not contain any infrastructure projects.

6.1.1 Voluntary Withdrawal of a State Expenditure Plan

At any point before a final decision by the Chairperson to approve or disapprove a State Expenditure Plan, the State may voluntarily withdraw a submitted State Expenditure Plan for any reason. The submission of a revised State Expenditure Plan after a State has voluntarily withdrawn a State Expenditure Plan 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 State Expenditure 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 State Expenditure Plan that was originally provided to the public for comment.

6.1.2 Comments from Council Members on a State Expenditure Plan

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 State Expenditure Plan and the four criteria described in Sections 4.1 and 4.2.2.

6.1.3 State Expenditure Plan Chairperson Review Comments

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

6.1.4 Re-submission and Review of Revised State Expenditure Plans

If the Chairperson disapproves a State Expenditure Plan, the State may revise and re-submit the State Expenditure Plan.² The revised State Expenditure Plan should include a list of all changes made from the original State Expenditure Plan and indicate text changes (e.g., in tracked changes). Following its review, Council staff will inform the State whether the revised State Expenditure Plan addresses all of the State Expenditure Plan 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 State Expenditure Plan (Section 6.2).

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

6.1.5 Judicial Review

If the Chairperson disapproves or fails to take action on the submission of a State Expenditure Plan or State Expenditure Plan 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 State Expenditure Plans

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

² In this Section a "revised State Expenditure Plan" refers to resubmitting a State Expenditure Plan after disapproval by the Chairperson or after voluntarily withdrawing a State Expenditure Plan 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.

6.2 State Expenditure Plan Approval

6.2.1 Council Staff Recommendation and Vote Requirement

Following its review of a State Expenditure Plan or revised State Expenditure Plan, Council staff will send to the Chairperson a determination indicating the completeness of the State Expenditure Plan 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 State Expenditure Plan. 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 State Expenditure Plan 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 State Expenditure Plans available to the public by posting approved State Expenditure Plans on the Council's website.

6.2.2 Project Funding Approval

Chairperson approval of a State Expenditure Plan shall not be construed as final funding approval of the individual projects and programs in that State Expenditure Plan. 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 State Expenditure Plan

The Council recognizes that not all modifications to an approved State Expenditure Plan will necessitate submission of an entirely new or amended (as defined in Section 6.4) State Expenditure Plan for Chairperson approval. In general, if under Federal grant law, an amendment to a grant implementing a particular project contained in the SEP would be appropriate, then a similar change to the State Expenditure Plan would not require submission of a new or amended State Expenditure Plan to the Chairperson for approval. However, there are two types of changes to a State Expenditure Plan that will require submission of a new or amended State Expenditure Plan: 1) changes in scope (i.e., new project activity or increased size of project) and 2) revisions requiring an increase in funds for a new activity or bigger project. If a State contemplates either of these two types of changes to an approved State Expenditure Plan, the State should follow the guidance and procedures in Section 4. (See also Section 5, State Expenditure Plans; Section 6.1, State Expenditure Plan Review; and Section 6.4, State Expenditure Plan Amendments).

For purposes of State Expenditure Plan funding, the Council has developed definitions and processes for submittal of changes that do not require submission of a new State Expenditure Plan (Section 6.3.1). In this Guidance, such changes are called “modifications.”

6.3.1 Modification to an Approved State Expenditure Plan

A State may modify an approved State Expenditure Plan without the formal Chairperson review process described in Section 6.4 if the change does not affect the overall scope or objective of the State Expenditure Plan or project(s) contained therein, or does not seek to increase funding for the State Expenditure Plan or project contained therein to add new activities or increase the scope of an existing project or projects.

Modifications to an approved State Expenditure Plan include, but are not limited to, changing the contact person for the State (Section 5.2.1). In general, a State should submit modifications to an approved State Expenditure Plan in the annual administrative copy of the State Expenditure Plan it provides to the Council (Section 7). Changes that effect real-time contact and communication, however, should be provided to Council staff at the time of the occurrence.

6.3.2 Changes to a Project within an Approved State Expenditure Plan

Changes to projects in an approved State Expenditure Plan that have already been selected for funding through issuance of a grant must be submitted in a grant application or through amendment to an existing grant. The changes must be identified and explained in the project narrative, *Changes from the Approved State Expenditure Plan*, and must:

- Identify any project/technical change and explain the reason for the change
- Identify any financial change and explain the reason for the change
- Show compliance with the infrastructure limitation and
- Include an assurance statement that (i) the proposed changes comply with the original intent of the project as stated in the approved State Expenditure Plan and (ii) the modified description comports with the original project description to the extent it remains recognizable as, and is still covered by, the State Certification of RESTORE Act Compliance (Section 5.2.2). Application submittal and official signature by the recipient will validate the assurance.

Council staff will evaluate the grant application to determine if the modified project: 1) still meets the original eligible activity criteria and 2) is in financial compliance. Project changes not requiring submission of a new State Expenditure Plan include, but are not limited to:

1. Minor changes to the scope of a project (e.g., minor increases or decreases in the number of wetlands acres created due to an increase in the project cost);
2. Minor changes to the budget of a project (e.g., increasing the budget due to an increase in the cost of materials or minor decreases in budget); and
3. Changing the Fiscal Year in which project funds are to be used.

6.4 State Expenditure Plan Amendments

If a proposed change to a State Expenditure Plan results in a change of scope or involves a funding increase for a new or significantly expanded activity, as described in Section 6.3 above, the State may either submit a new State Expenditure Plan or a State Expenditure Plan Amendment. State Expenditure Plan Amendments can 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.

7. Administrative Copies of State Expenditure Plans

On an annual basis, each State must submit to the Council a copy of their State Expenditure Plan that incorporates all State Expenditure Plan changes (Section 6.3.1), all approved project changes (Section 6.3.2) and all approved State Expenditure Plan Amendments (Section 6.4) since the last annual submission.

Administrative copies should be submitted with tracked changes and incorporate all relevant changes to financial tables, lists, tables of contents, etc. States should submit their annual administrative copies according to the following schedule:

State should submit the Administrative copy to:

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

The Council will make Administrative copies of the State Expenditure Plan available to the public at www.restorethegulf.gov.