

§ 1443. Destruction or loss of, or injury to, sanctuary resources

(a) Liability

(1) Liability to United States

Any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for an amount equal to the sum of—

(A) the amount of response costs and damages resulting from the destruction, loss, or injury; and

(B) interest on that amount calculated in the manner described under section 2705 of title 33.

(2) Liability in rem

Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury. The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

(3) Defenses

A person is not liable under this subsection if that person establishes that—

(A) the destruction or loss of, or injury to, the sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;

(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

(C) the destruction, loss, or injury was negligible.

(4) Limits to liability

Nothing in sections 4281–4289 of the Revised Statutes of the United States or section 30706 of title 46 shall limit the liability of any person under this chapter.

(b) Response actions and damage assessment

(1) Response actions

The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

(2) Damage assessment

The Secretary shall assess damages to sanctuary resources in accordance with section 1432(6) of this title.

(c) Civil actions for response costs and damages

(1) The Attorney General, upon request of the Secretary, may commence a civil action against any person or vessel who may be liable under subsection (a) for response costs and damages. The Secretary, acting as trustee for sanctuary resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

(2) An action under this subsection may be brought in the United States district court for any district in which—

(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

(B) the vessel is located, in the case of an action against a vessel; or

(C) the destruction of, loss of, or injury to a sanctuary resource occurred.

(d) Use of recovered amounts

Response costs and damages recovered by the Secretary under this section shall be retained by the Secretary in the manner provided for in section 9607(f)(1) of title 42, and used as follows:

(1) Response costs

Amounts recovered by the United States for costs of response actions and damage assessments under this section shall be used, as the Secretary considers appropriate—

(A) to reimburse the Secretary or any other Federal or State agency that conducted those activities; and

(B) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any sanctuary resource.

(2) Other amounts

All other amounts recovered shall be used, in order of priority—

(A) to restore, replace, or acquire the equivalent of the sanctuary resources that were the subject of the action, including for costs of monitoring and the costs of curation and conservation of archeological, historical, and cultural sanctuary resources;

(B) to restore degraded sanctuary resources of the national marine sanctuary that was the subject of the action, giving priority to sanctuary resources and habitats that are comparable to the sanctuary resources that were the subject of the action; and

(C) to restore degraded sanctuary resources of other national marine sanctuaries.

(3) Federal-State coordination

Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (2)(A) and (B) in accordance with the court decree or settlement agreement and an agreement entered into by the Secretary and the Governor of that State.

(e) Statute of limitations

An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the sanctuary resources to which the action relates.

(Pub. L. 92-532, title III, §312, as added Pub. L. 100-627, title II, §204(a), Nov. 7, 1988, 102 Stat. 3215; amended Pub. L. 102-587, title II, §§2107(d), 2110, Nov. 4, 1992, 106 Stat. 5044, 5045; Pub. L. 104-283, §9(e), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106-513, §§13, 19(c), Nov. 13, 2000, 114 Stat. 2389, 2393.)

REFERENCES IN TEXT

Sections 4281–4289 of the Revised Statutes of the United States, referred to in subsec. (a)(4), were classi-

fied to sections 181 to 188 of the former Appendix to Title 46, Shipping, and section 175 of former Title 46. Sections 4281 to 4287 and 4289 of the Revised Statutes were repealed and restated in chapter 305 of Title 46, Shipping, by Pub. L. 109-304, §§6(c), 19, Oct. 6, 2006, 120 Stat. 1509, 1710. Section 4288 of the Revised Statutes (section 175 of former Title 46) was repealed by act Oct. 9, 1940, ch. 777, §7, 54 Stat. 1028. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of Title 46.

CODIFICATION

In subsec. (a)(4), “section 30706 of title 46” substituted for “section 3 of the Act of February 13, 1893,” on authority of Pub. L. 109-304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 30706 of Title 46, Shipping.

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106-513, §19(c), amended par. (1) heading.

Subsec. (c). Pub. L. 106-513, §13(a), designated existing provisions as par. (1), struck out “in the United States district court for the appropriate district” after “civil action”, and added par. (2).

Subsec. (d)(1), (2). Pub. L. 106-513, §13(b), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) RESPONSE COSTS AND DAMAGE ASSESSMENTS.—Twenty percent of amounts recovered under this section, up to a maximum balance of \$750,000, shall be used to finance response actions and damage assessments by the Secretary.

“(2) RESTORATION, REPLACEMENT, MANAGEMENT, AND IMPROVEMENT.—Amounts remaining after the operation of paragraph (1) shall be used, in order of priority—

“(A) to restore, replace, or acquire the equivalent of the sanctuary resources which were the subject of the action;

“(B) to manage and improve the national marine sanctuary within which are located the sanctuary resources which were the subject of the action; and

“(C) to manage and improve any other national marine sanctuary.”

Subsec. (e). Pub. L. 106-513, §13(c), added subsec. (e). 1996—Subsec. (b)(1). Pub. L. 104-283 made technical amendment to directory language of Pub. L. 102-587, §2110(d). See 1992 Amendment note below.

1992—Subsec. (a)(1). Pub. L. 102-587, §2110(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “IN GENERAL.—Subject to paragraph (3), any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.”

Subsec. (a)(2). Pub. L. 102-587, §2110(b), inserted at end “The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.”

Subsec. (a)(4). Pub. L. 102-587, §2110(c), added par. (4).

Subsec. (b)(1). Pub. L. 102-587, §2110(d), as amended by Pub. L. 104-283, inserted “or authorize” after “undertake”.

Subsec. (d). Pub. L. 102-587, §2107(d)(1), struck out “and civil penalties under section 1437 of this title” after “Secretary under this section”.

Subsec. (d)(3), (4). Pub. L. 102-587, §§2107(d)(2), 2110(e), redesignated par. (4) as (3), inserted “the court decree or settlement agreement and” after “in accordance with”, and struck out former par. (3) which read as follows: “Amounts recovered under section 1437 of this title in the form of civil penalties shall be used by the Secretary in accordance with section 1437(e) of this title and paragraphs (2)(B) and (C) of this subsection.”

EFFECTIVE DATE

Pub. L. 100-627, title II, §204(c), Nov. 7, 1988, 102 Stat. 3217, provided that: “Amounts in the form of damages

received by the United States after November 30, 1986, for destruction or loss of, or injury to, a sanctuary resource (as that term is defined in section 302(8) of the Act [16 U.S.C. 1432(8)] (as amended by this Act)) shall be subject to section 312 of the Act [16 U.S.C. 1443] (as amended by this Act).”

§ 1444. Authorization of appropriations

There are authorized to be appropriated to the Secretary—

(1) to carry out this chapter—

(A) \$32,000,000 for fiscal year 2001;

(B) \$34,000,000 for fiscal year 2002;

(C) \$36,000,000 for fiscal year 2003;

(D) \$38,000,000 for fiscal year 2004;

(E) \$40,000,000 for fiscal year 2005; and

(2) for construction projects at national marine sanctuaries, \$6,000,000 for each of fiscal years 2001, 2002, 2003, 2004, and 2005.

(Pub. L. 92-532, title III, §313, as added Pub. L. 100-627, title II, §208, Nov. 7, 1988, 102 Stat. 3221; amended Pub. L. 101-605, §10(a), Nov. 16, 1990, 104 Stat. 3095; Pub. L. 102-587, title II, §2111, Nov. 4, 1992, 106 Stat. 5046; Pub. L. 104-283, §3, Oct. 11, 1996, 110 Stat. 3363; Pub. L. 106-513, §14, Nov. 13, 2000, 114 Stat. 2390.)

AMENDMENTS

2000—Pub. L. 106-513 amended section generally, substituting provisions authorizing appropriations to carry out this chapter for fiscal years 2001 to 2005 for provisions authorizing such appropriations for fiscal years 1997 to 1999.

1996—Pub. L. 104-283 amended section generally, substituting provisions authorizing appropriations to carry out this chapter for fiscal years 1997 to 1999 for provisions authorizing such appropriations for fiscal years 1993 to 1996.

1992—Pub. L. 102-587 amended section generally, substituting provisions relating to authorization of appropriations for fiscal years 1993 to 1996 to carry out this chapter for provisions relating to authorization of appropriations for fiscal years 1989 to 1992 to carry out general administration, management of national marine sanctuaries and site review and analysis of national marine sanctuaries of this chapter.

1990—Par. (2)(C). Pub. L. 101-605 substituted “\$4,000,000” for “\$3,000,000”.

§ 1445. U.S.S. Monitor artifacts and materials

(a) Congressional policy

In recognition of the historical significance of the wreck of the United States ship Monitor to the coast of North Carolina and to the area off the coast of North Carolina known as the Graveyard of the Atlantic, the Congress directs that a suitable display of artifacts and materials from the United States ship Monitor be maintained permanently at an appropriate site in coastal North Carolina.

(b) Disclaimer

This section shall not affect the following:

(1) Responsibilities of Secretary

The responsibilities of the Secretary to provide for the protection, conservation, and display of artifacts and materials from the United States ship Monitor.

(2) Authority of Secretary

The authority of the Secretary to designate the Mariner’s Museum, located at Newport