

(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

(C) an amount which represents the fair market value of the use of the sanctuary resource.

(3) Use of fees

Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

(A) for issuing and administering permits under this section; and

(B) for expenses of managing national marine sanctuaries.

(4) Waiver or reduction of fees

The Secretary may accept in-kind contributions in lieu of a fee under paragraph (2)(C), or waive or reduce any fee assessed under this subsection for any activity that does not derive profit from the access to or use of sanctuary resources.

(e) Violations

Upon violation of a term or condition of a permit issued under this section, the Secretary may—

(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

(2) assess a civil penalty in accordance with section 1437 of this title; or

(3) both.

(f) Reports

Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

(g) Fishing

Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.

(Pub. L. 92-532, title III, §310, as added Pub. L. 100-627, title II, §203(3), Nov. 7, 1988, 102 Stat. 3214; amended Pub. L. 106-513, §11, Nov. 13, 2000, 114 Stat. 2389.)

AMENDMENTS

2000—Subsec. (b). Pub. L. 106-513, §11(1), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 106-513, §11(1), (2), redesignated subsec. (b) as (c) and substituted “insurance, or post an equivalent bond,” for “insurance” in par. (4). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 106-513, §11(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(2)(C). Pub. L. 106-513, §11(3), substituted “resource.” for “resource and a reasonable return to the United States Government.”

Subsec. (d)(3)(B). Pub. L. 106-513, §11(4), struck out “designating and” after “expenses of”.

Subsec. (d)(4). Pub. L. 106-513, §11(5), added par. (4).

Subsecs. (e) to (g). Pub. L. 106-513, §11(1), redesignated subsecs. (d) to (f) as (e) to (g), respectively.

§ 1442. Cooperative agreements, donations, and acquisitions

(a) Agreements and grants

The Secretary may enter into cooperative agreements, contracts, or other agreements with, or make grants to, States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this chapter.

(b) Authorization to solicit donations

The Secretary may enter into such agreements with any nonprofit organization authorizing the organization to solicit private donations to carry out the purposes and policies of this chapter.

(c) Donations

The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this chapter. Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

(d) Acquisitions

The Secretary may acquire by purchase, lease, or exchange, any land, facilities, or other property necessary and appropriate to carry out the purposes and policies of this chapter.

(e) Use of resources of other government agencies

The Secretary may, whenever appropriate, enter into an agreement with a State or other Federal agency to use the personnel, services, or facilities of such agency on a reimbursable or nonreimbursable basis, to assist in carrying out the purposes and policies of this chapter.

(f) Authority to obtain grants

Notwithstanding any other provision of law that prohibits a Federal agency from receiving assistance, the Secretary may apply for, accept, and use grants from other Federal agencies, States, local governments, regional agencies, interstate agencies, foundations, or other persons, to carry out the purposes and policies of this chapter.

(Pub. L. 92-532, title III, §311, as added Pub. L. 100-627, title II, §203(3), Nov. 7, 1988, 102 Stat. 3215; amended Pub. L. 102-587, title II, §2109, Nov. 4, 1992, 106 Stat. 5045; Pub. L. 104-283, §9(d), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106-513, §12, Nov. 13, 2000, 114 Stat. 2389.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-513, §12(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary may enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this chapter.”

Subsecs. (e), (f). Pub. L. 106-513, §12(b), added subsecs. (e) and (f).

1996—Pub. L. 104-283 made technical amendment to directory language of Pub. L. 102-587. See 1992 Amendment note below.

1992—Pub. L. 102-587, as amended by Pub. L. 104-283, amended section generally. Prior to amendment, section read as follows:

“(a) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with any nonprofit organization—

“(1) to aid and promote interpretive, historical, scientific, and educational activities; and

“(2) for the solicitation of private donations for the support of such activities.

“(b) DONATIONS.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this chapter.”

ENHANCING SUPPORT FOR NATIONAL MARINE
SANCTUARIES

Section 2204 of title II of Pub. L. 102-587, which was formerly set out as a note under this section, was renumbered section 316 of Pub. L. 92-532, The National Marine Sanctuaries Act, by Pub. L. 104-283, §6(a), Oct. 11, 1996, 110 Stat. 3364, and is classified to section 1445b of this title.

§ 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.