

and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103)<sup>2</sup> and are limited to actions that are necessary to alleviate the emergency.

(vi) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities. This clause shall not apply to roads, structures, or facilities referred to in paragraph (3)(B).

(vii) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(4) The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this subsection during each fiscal year beginning after September 30, 1987. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

(5) Nothing contained in this subsection shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person or any obligation imposed by any law of any State, or political subdivision of a State. No provision of this subsection shall be construed to invalidate any provision of State or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This subsection shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

#### (f) Transfer of public lands

Subject to valid existing rights, all public lands within the scenic area administered by the Secretary of the Interior through the Bureau of Land Management are hereby transferred without consideration to the jurisdiction of the Secretary to be managed as National Forest lands in accordance with the provisions of sections 544 to 544p of this title.

(Pub. L. 99-663, § 14, Nov. 17, 1986, 100 Stat. 4294; Pub. L. 106-291, title III, § 346(e), Oct. 11, 2000, 114 Stat. 1000; Pub. L. 113-287, § 5(d)(16), Dec. 19, 2014, 128 Stat. 3265.)

#### REFERENCES IN TEXT

The Mineral Lands Leasing Act of 1920, referred to in subsec. (e)(2)(A)(ii), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

Act of June 9, 1916, referred to in subsec. (e)(2)(A)(ii), is act June 9, 1916, ch. 137, 39 Stat. 218, which is not classified to the Code.

Act of Feb. 26, 1919, referred to in subsec. (e)(2)(A)(ii), is act Feb. 26, 1919, ch. 47, 40 Stat. 1179, which is not classified to the Code.

The Coastal Zone Management Act of 1972, referred to in subsec. (e)(3)(D)(iii), is title III of Pub. L. 89-454 as

added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (§1451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

The Disaster Relief Act of 1974, referred to in subsec. (e)(3)(D)(v), was renamed The Robert T. Stafford Disaster Relief and Emergency Assistance Act, and was substantially revised by Pub. L. 100-707, Nov. 23, 1988, 102 Stat. 4689. Section 102(b) of Pub. L. 100-707 provided that a reference in any other law to a provision of the Disaster Relief Act of 1974 shall be deemed to be a reference to such provision of The Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Robert T. Stafford Disaster Relief and Emergency Assistance Act was renamed the Robert T. Stafford Disaster Relief and Emergency Assistance Act by Pub. L. 106-390, title III, §301, Oct. 30, 2000, 114 Stat. 1572. Section 105(d) of Pub. L. 100-707 repealed sections 305 and 306 of the Act (42 U.S.C. 5145 and 5146) and redesignated sections 308 and 309 of the Act (42 U.S.C. 5148 and 5149), and any references thereto, as sections 305 and 306, respectively. For corresponding provisions to former sections 305 and 306 of the Act, see sections 5170a, 5170b, and 5192 of Title 42, The Public Health and Welfare.

Section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103), referred to in subsec. (e)(3)(D)(v), was repealed by Pub. L. 103-325, title V, §551(a), Sept. 23, 1994, 108 Stat. 2269.

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (e)(4), is Pub. L. 93-344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

#### AMENDMENTS

2014—Subsec. (e)(3)(D)(iii). Pub. L. 113-287, which directed amendment of subsec. (e)(3)(D)(iii) by substituting “chapter 2003 of title 54” for “the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11)”, was executed by making the substitution for “the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11)”, to reflect the probable intent of Congress.

2000—Subsec. (c)(3). Pub. L. 106-291 inserted par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, substituted “Except as provided in subparagraph (B), no payment” for “No payment”, substituted “eighth full fiscal year” for “fifth full fiscal year”, and added subpar. (B).

### § 544m. Enforcement

#### (a) Administrative remedies

##### (1) Commission orders

The Commission shall monitor activities of counties pursuant to sections 544 to 544p of this title and shall take such actions as it determines are necessary to ensure compliance.

##### (2) Appeal to the Commission

Any person or entity adversely affected by any final action or order of a county relating to the implementation of sections 544 to 544p of this title may appeal such action or order to the Commission by filing with the Commission within thirty days of such action or order, a written petition requesting that such action or order be modified, terminated, or set aside.

##### (3) Civil penalties

Any person or entity who willfully violates the management plan or any land use ordinance or any implementation measure or any order issued by the Commission pursuant to

sections 544 to 544p of this title may be assessed a civil penalty by the Commission not to exceed \$10,000 for each violation. No penalty may be assessed under this subsection unless such person or entity is given notice and opportunity for a public hearing with respect to such violation. The Commission may compromise, modify, or remit, with or without conditions, any penalty imposed under this subsection, taking into consideration the nature and seriousness of the violation and the efforts of the violator to remedy the violation in a timely manner.

**(b) Judicial remedies**

**(1) Civil actions to enforce sections 544 to 544p of this title**

(A) Except as otherwise limited by sections 544 to 544p of this title, the Attorney General of the United States may, at the request of the Secretary, institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the special management areas in violation of the provisions of sections 544 to 544p of this title, interim guideline adopted or other action taken by the Secretary pursuant to sections 544 to 544p of this title.

(B) The Commission, or, at the request of the Commission, or the attorney general of Oregon or Washington, may institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the scenic area outside urban areas in violation of the provisions of sections 544 to 544p of this title, the management plan, or any land use ordinance or interim guideline adopted or other action taken by the Commission or any county pursuant to sections 544 to 544p of this title.

**(2) Citizens suits**

Any person or entity adversely affected may commence a civil action to compel compliance with sections 544 to 544p of this title—

(A) against the Secretary, the Commission or any county where there is alleged a violation of the provisions of sections 544 to 544p of this title, the management plan or any land use ordinance or interim guideline adopted or other action taken by the Secretary, the Commission, or any county pursuant to or Commission<sup>1</sup> under sections 544 to 544p of this title; or

(B) against the Secretary, the Commission, or any county where there is alleged a failure of the Secretary, the Commission or any county to perform any act or duty under sections 544 to 544p of this title which is not discretionary with the Secretary, the Commission or any county.

**(3) Limitation on bringing of citizens suits**

No action may be commenced—

(A) under paragraph (2)(A) of this subsection—

(i) prior to sixty days after the plaintiff has given notice in writing of the alleged violation to the Secretary, to the Commis-

sion, and to the county in which the violation is alleged to have occurred; or

(ii) if the Attorney General of the United States, or the attorney general of Oregon or Washington, has commenced and is diligently prosecuting a civil action on the same matter pursuant to paragraph (1) of this subsection to require compliance with the management plan or any regulations, guidelines, or standards issued or other actions taken by the Secretary, the Commission, or any county pursuant to sections 544 to 544p of this title: *Provided*, That in any such action any person or entity otherwise entitled to bring an action pursuant to paragraph (2) of this subsection may intervene as a matter of right; or

(iii) which challenges the consistency of the draft management plan with the purposes and standards of sections 544 to 544p of this title or with other applicable law prior to the certification or adoption of the Management Plan pursuant to section 544d of this title; or

(B) under paragraph (2)(B) of this subsection prior to sixty days after the plaintiff has given notice in writing of such action to the Secretary, the Commission, and to the county in which the failure to perform any act or duty pursuant to sections 544 to 544p of this title is alleged: *Provided*, That such action may be brought immediately after such notification where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

**(4) Judicial review**

Any person or entity adversely affected by—

(A) any final action or order of a county, the Commission, or the Secretary relating to the implementation of sections 544 to 544p of this title;

(B) any land use ordinance or interim guideline adopted pursuant to sections 544 to 544p of this title;

(C) any appeal to the Commission pursuant to this section;

(D) any civil penalty assessed by the Commission pursuant to paragraph (a)(3) of this subsection may appeal such action or order by filing in any of the courts specified in paragraph (5) of this subsection, within sixty days after the date of service of such order or within sixty days after such action is taken, a written petition requesting such action, order, land use ordinance, interim guideline, or appeal taken to the Commission be modified, terminated, or set aside.

**(5) Federal court jurisdiction**

The United States district courts located in the States of Oregon and Washington shall have jurisdiction over—

(A) any criminal penalty imposed pursuant to section 551 of this title, or any other applicable law for violation of any order, regulation or other action taken by the Secretary pursuant to sections 544 to 544p of this title;

<sup>1</sup> So in original. The word "Commission" probably should not appear.

(B) any civil action brought against the Secretary pursuant to this section; or

(C) any appeal of any order, regulation, or other action of the Secretary taken pursuant to paragraph (4) of this subsection.

**(6) State court jurisdiction**

The State courts of the States of Oregon and Washington shall have jurisdiction—

(A) to review any appeals taken to the Commission pursuant to subsection (a)(2) of this section;

(B) over any civil action brought by the Commission pursuant to subsection (b)(1) of this section or against the Commission, a State, or a county pursuant to subsection (b)(2) of this section;

(C) over any appeal of any order, regulation, or other action of the Commission or a county taken pursuant to paragraph 4<sup>2</sup> of this subsection; or

(D) any civil penalties assessed by the Commission pursuant to subsection (a)(3) of this section.

(Pub. L. 99-663, § 15, Nov. 17, 1986, 100 Stat. 4297.)

**§ 544n. Authorization of appropriations**

**(a) General authorizations**

There are authorized to be appropriated for fiscal years after the fiscal year 1986 such sums as are described below;<sup>1</sup>

(1) For the purpose of acquisition of lands, water and interests therein pursuant to sections 544 to 544p of this title: \$40,000,000: *Provided*, That of this amount no more than \$10,000,000 shall be available to acquire lands, water, and interests therein pursuant to section 544h of this title. Such amounts are authorized to be appropriated from amounts covered into the Land and Water Conservation Fund notwithstanding any allocation, apportionment, or limitation contained in chapter 2003 of title 54.

(2) For the purpose of providing payments to local governments pursuant to section 544(c) of this title: \$2,000,000.

**(b) Specific authorizations**

There are authorized to be appropriated for fiscal years after the fiscal year 1986, effective upon concurrence on the management plan pursuant to section 544d of this title:

(1) For the purpose of construction of an interpretive center to be located in the State of Oregon, and a conference center to be located in the State of Washington: \$10,000,000.

(2) For the purpose of construction of recreation facilities pursuant to section 544e(d) of this title: \$10,000,000.

(3) For the purpose of preparing a program and restoring and reconstructing the Old Columbia River Scenic Highway, Oregon pursuant to section 544j of this title: \$2,800,000.

(4) For the purpose of providing economic development grants pursuant to section 544i of this title: \$5,000,000 for each State: *Provided*, That funds authorized to be appropriated pursuant to this paragraph shall be available for

the acquisition of lands and interests therein pursuant to section 544h of this title if, at the expiration of three years, the States have failed to carry out their respective function pursuant to section 544c of this title.

**(c) Availability of funds**

Funds appropriated under subsections (a)(2) and (b) shall not be made available for any county which does not have in effect a land use ordinance which has been found to be consistent by the Commission, and concurred on by the Secretary as consistent with the management plan pursuant to section 544f of this title.

(Pub. L. 99-663, § 16, Nov. 17, 1986, 100 Stat. 4300; Pub. L. 113-287, § 5(d)(17), Dec. 19, 2014, 128 Stat. 3265.)

AMENDMENTS

2014—Subsec. (a)(1). Pub. L. 113-287, which directed amendment of par. (1) by substituting “chapter 2003 of title 54” for “the Land and Water Conservation Fund (16 U.S.C. 4601-4 and following)”, was executed by making the substitution for “the Land and Water Conservation Fund (16 U.S.C. 4601-4 and following)”, to reflect the probable intent of Congress.

**§ 544o. Savings provisions**

**(a) Effect on rights of Indians, use of water, rivers and streams, interstate compacts, existing transmission facilities, hunting and fishing, forest plans, scenic areas**

Nothing in sections 544 to 544p of this title shall—

(1) affect or modify any treaty or other rights of any Indian tribe;

(2) except as provided in section 13(c),<sup>1</sup> authorize the appropriation or use of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual;

(3) except as provided in section 13(c),<sup>1</sup> affect the rights or jurisdictions of the United States, the States, Indian tribes or other entities over waters of any river or stream or over any ground water resource or affect or interfere with transportation activities on any such river or stream;

(4) except as provided in section 13(c),<sup>1</sup> alter, establish, or affect the respective rights of the United States, the States, Indian tribes, or any person with respect to any water or water-related right;

(5) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States before November 17, 1986;

(6) affect or modify the ability of the Bonneville Power Administration to operate, maintain, and modify existing transmission facilities;

(7) affect lands held in trust by the Secretary of the Interior for Indian tribes or individual members of Indian tribes or other lands acquired by the Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes and individual members of Indian tribes;

(8) affect the laws, rules and regulations pertaining to hunting and fishing under existing State and Federal laws and Indian treaties;

<sup>2</sup> So in original. Probably should be paragraph “(4)”.

<sup>1</sup> So in original. The semicolon probably should be a colon.

<sup>1</sup> See References in Text note below.