

Section 19dd, Pub. L. 97-433, §5, Jan. 8, 1983, 96 Stat. 2278, related to administration of Fund projects and required Foundation to include in its annual report a description of projects undertaken and accomplishments made under this subchapter.

Section 19ee, Pub. L. 97-433, §6, Jan. 8, 1983, 96 Stat. 2278, related to authority of National Park Foundation.

Section 19ff, Pub. L. 97-433, §7, Jan. 8, 1983, 96 Stat. 2279, provided that nothing in this subchapter affect responsibilities of Secretary of the Interior under other provisions of law.

Section 19gg, Pub. L. 97-433, §8, Jan. 8, 1983, 96 Stat. 2279, provided that authorities contained in this subchapter expire Sept. 30, 1989, and that any moneys credited to Fund not appropriated, expended, or obligated be transferred to miscellaneous receipts of the Treasury.

SHORT TITLE

Section 1 of Pub. L. 97-433 provided that this subchapter be cited as the "National Park System Visitor Facilities Fund Act".

SUBCHAPTER III-B—PARK SYSTEM RESOURCE PROTECTION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 43 section 1474b-1.

§ 19jj. Definitions

As used in this subchapter the term:

(a) "Attorney General" means the Attorney General of the United States.

(b) "Damages" includes the following:

(1) Compensation for—

(A)(i) the cost of replacing, restoring, or acquiring the equivalent of a park system resource; and

(ii) the value of any significant loss of use of a park system resource pending its restoration or replacement or the acquisition of an equivalent resource; or

(B) the value of the park system resource in the event the resource cannot be replaced or restored.

(2) The cost of damage assessments under section 19jj-2(b) of this title.

(c) "Response costs" means the costs of actions taken by the Secretary of the Interior to prevent or minimize destruction or loss of or injury to park system resources; or to abate or minimize the imminent risk of such destruction, loss, or injury; or to monitor ongoing effects of incidents causing such destruction, loss, or injury.

(d) "Park system resource" means any living or non-living resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.

(e) "Regimen" means a water column and submerged lands, up to the high-tide or high-water line.

(f) "Secretary" means the Secretary of the Interior.

(g) "Marine or aquatic park system resource" means any living or non-living part of a marine or aquatic regimen within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.

(Pub. L. 101-337, §1, July 27, 1990, 104 Stat. 379; Pub. L. 104-333, div. I, title VIII, §814(h)(1), (2), Nov. 12, 1996, 110 Stat. 4199.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-333, §804(h)(1), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "'Park system resource' means any living or nonliving resource that is located within or is a living part of a marine regimen or a Great Lakes aquatic regimen (including an aquatic regimen within Voyageurs National Park) within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.'"

Subsec. (g). Pub. L. 104-333, §814(h)(2), added subsec. (g).

§ 19jj-1. Liability

(a) In general

Subject to subsection (c) of this section, any person who destroys, causes the loss of, or injures any park system resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

(b) Liability in rem

Any instrumentality, including but not limited to a vessel, vehicle, aircraft, or other equipment that destroys, causes the loss of, or injures any park system resource or any marine or aquatic park resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury to the same extent as a person is liable under subsection (a) of this section.

(c) Defenses

A person is not liable under this section if such person can establish that—

(1) the destruction, loss of, or injury to the park system resource was caused solely by an act of God or an act of war;

(2) such person acted with due care, and the destruction, loss of, or injury to the park system resource was caused solely by an act or omission of a third party, other than an employee or agent of such person; or

(3) the destruction, loss, or injury to the park system resource was caused by an activity authorized by Federal or State law.

(d) Scope

The provisions of this section shall be in addition to any other liability which may arise under Federal or State law.

(Pub. L. 101-337, §2, July 27, 1990, 104 Stat. 379; Pub. L. 104-333, div. I, title VIII, §814(h)(3), Nov. 12, 1996, 110 Stat. 4199; Pub. L. 106-176, title I, §120(c), Mar. 10, 2000, 114 Stat. 29.)

AMENDMENTS

2000—Subsec. (b). Pub. L. 106-176 inserted "or" after "park system resource".

1996—Subsec. (b). Pub. L. 104-333 inserted "any marine or aquatic park resource" after "any park system resource".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 19jj-2 of this title.

§ 19jj-2. Actions

(a) Civil actions for response costs and damages

The Attorney General, upon request of the Secretary after a finding by the Secretary—

- (1) of damage to a park system resource; or
- (2) that absent the undertaking of response costs, damage to a park system resource would have occurred;

may commence a civil action in the United States district court for the appropriate district against any person who may be liable under section 19jj-1 of this title for response costs and damages. The Secretary shall submit a request for such an action to the Attorney General whenever a person may be liable or an instrumentality may be liable in rem for such costs and damages as provided in section 19jj-1 of this title.

(b) Response actions and assessment of damages

(1) The Secretary shall undertake all necessary actions to prevent or minimize the destruction, loss of, or injury to park system resources, or to minimize the imminent risk of such destruction, loss, or injury.

(2) The Secretary shall assess and monitor damages to park system resources.

(Pub. L. 101-337, § 3, July 27, 1990, 104 Stat. 380.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 19jj of this title.

§ 19jj-3. Use of recovered amounts

Response costs and damages recovered by the Secretary under the provisions of this subchapter or amounts recovered by the Federal Government under any Federal, State, or local law or regulation or otherwise as a result of damage to any living or nonliving resource located within a unit of the National Park System, except for damage to resources owned by a non-Federal entity, shall be available to the Secretary and without further congressional action may be used only as follows:

(a) Response costs and damage assessments

To reimburse response costs and damage assessments by the Secretary or other Federal agencies as the Secretary deems appropriate.

(b) Restoration and replacement

To restore, replace, or acquire the equivalent of resources which were the subject of the action and to monitor and study such resources: *Provided*, That no such funds may be used to acquire any lands or waters or interests therein or rights thereto unless such acquisition is specifically approved in advance in appropriations Acts and any such acquisition shall be subject to any limitations contained in the organic legislation for such park unit.

(c) Excess funds

Any amounts remaining after expenditures pursuant to subsections (a) and (b) of this section shall be deposited into the General Fund of the United States Treasury.

(Pub. L. 101-337, § 4, July 27, 1990, 104 Stat. 380; Pub. L. 103-437, § 6(d)(3), Nov. 2, 1994, 108 Stat. 4583.)

CODIFICATION

Subsection (d), which required the Secretary to report annually to the Committee on Appropriations and the Committee on Energy and Natural Resources of the

United States Senate and the Committee on Appropriations and the Committee on Natural Resources of the United States House of Representatives on funds expended pursuant to this subchapter, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 111 of House Document No. 103-7.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103-437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

§ 19jj-4. Donations

The Secretary may accept donations of money or services for expenditure or employment to meet expected, immediate, or ongoing response costs. Such donations may be expended or employed at any time after their acceptance, without further congressional action.

(Pub. L. 101-337, § 5, July 27, 1990, 104 Stat. 381.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 19jj-3 of this title.

SUBCHAPTER IV—CONCESSIONS FOR ACCOMMODATIONS, FACILITIES, AND SERVICES IN AREAS ADMINISTERED BY NATIONAL PARK SERVICE

§§ 20 to 20g. Repealed. Pub. L. 105-391, title IV, § 415(a), Nov. 13, 1998, 112 Stat. 3515

Section 20, Pub. L. 89-249, § 1, Oct. 9, 1965, 79 Stat. 969, related to congressional findings and statement of purpose.

Section 20a, Pub. L. 89-249, § 2, Oct. 9, 1965, 79 Stat. 969, related to authority of Secretary of the Interior to encourage concessioners.

Section 20b, Pub. L. 89-249, § 3, Oct. 9, 1965, 79 Stat. 969, related to protection of concessioner's investment. Section 20c, Pub. L. 89-249, § 4, Oct. 9, 1965, 79 Stat. 970, related to new or additional services, preferential rights, and operations by a single concessioner.

Section 20d, Pub. L. 89-249, § 5, Oct. 9, 1965, 79 Stat. 970, related to renewal preference for satisfactory performance, extensions, new contracts, and public notice.

Section 20e, Pub. L. 89-249, § 6, Oct. 9, 1965, 79 Stat. 970, related to concessioner's possessory interest in concession property, limitations, compensation for taking, and determination of just compensation.

Section 20f, Pub. L. 89-249, § 7, Oct. 9, 1965, 79 Stat. 971, related to use of non-monetary consideration in leases of government property.

Section 20g, Pub. L. 89-249, § 9, Oct. 9, 1965, 79 Stat. 971, related to recordkeeping, audit and examination, and access to books and records.

Sections 20 to 20g were popularly known as the National Park System Concessions Policy Act. For similar provisions, see section 5951 et seq. of this title.

REPEAL OF NATIONAL PARK SERVICE CONCESSIONS POLICY ACT; SAVINGS PROVISION

Pub. L. 105-391, title IV, § 415(a), Nov. 13, 1998, 112 Stat. 3515, provided that: “Public Law 89-249 (commonly known as the National Park Service Concessions Policy Act; 16 U.S.C. 20 et seq.) is repealed. The repeal of such Act shall not affect the validity of any concessions contract or permit entered into under such Act, but the provisions of this title [see Short Title note set out under section 5901 of this title] shall apply to any such contract or permit except to the extent such provisions are inconsistent with the terms and conditions of any such contract or permit. References in this title to concessions contracts awarded under authority of