

stituting “chapter 2003 of title 54” for “the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4607-4 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 Commission, 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 immi-

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

ment 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;

(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>

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

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

(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 544l(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.)

**Editorial Notes**

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—