

SUBCHAPTER II—SYSTEM UNIT RESOURCE PROTECTION

§ 100721. Definitions

In this subchapter:

(1) **DAMAGES.**—The term “damages” includes—

(A) compensation for—

(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a System unit resource; and

(II) the value of any significant loss of use of a System unit resource pending its restoration or replacement or the acquisition of an equivalent resource; or

(ii) the value of the System unit resource if the System unit resource cannot be replaced or restored; and

(B) the cost of a damage assessment under section 100723(b) of this title.

(2) **RESPONSE COSTS.**—The term “response costs” means the costs of actions taken by the Secretary to—

(A) prevent or minimize destruction or loss of or injury to a System unit resource;

(B) abate or minimize the imminent risk of the destruction, loss, or injury; or

(C) monitor ongoing effects of incidents causing the destruction, loss, or injury.

(3) **SYSTEM UNIT RESOURCE.**—

(A) **IN GENERAL.**—The term “System unit resource” means any living or non-living resource that is located within the boundaries of a System unit.

(B) **EXCLUSION.**—The term “System unit resource” does not include a resource owned by a non-Federal entity.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3106.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 100721 | 16 U.S.C. 19jj. | Pub. L. 101–337, § 1, 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. |

In this section, the text of 16 U.S.C. 19jj(a) is omitted as unnecessary. The text of 16 U.S.C. 19jj(e) is omitted because the term “regimen” is not used in the revised title. The text of 16 U.S.C. 19jj(g) is omitted because a marine or aquatic park system resource is a kind of park system resource.

§ 100722. Liability

(a) **IN GENERAL.**—Subject to subsection (c), any person that destroys, causes the loss of, or injures any System unit resource is liable to the United States for response costs and damages resulting from the destruction, loss, or injury.

(b) **LIABILITY IN REM.**—Any instrumentality, including a vessel, vehicle, aircraft, or other equipment, that destroys, causes the loss of, or injures any System unit resource shall be liable in rem to the United States for response costs and damages resulting from the destruction, loss, or injury to the same extent as a person is liable under subsection (a).

(c) **DEFENSES.**—A person is not liable under this section if the person establishes that—

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

(2) the person acted with due care, and the destruction, loss of, or injury to the System unit resource was caused solely by an act or omission of a 3d party, other than an employee or agent of the person; or

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

(d) **SCOPE.**—Liability under this section is in addition to any other liability that may arise under Federal or State law.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3107.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 100722 | 16 U.S.C. 19jj–1. | 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. |

§ 100723. Actions

(a) **CIVIL ACTION FOR RESPONSE COSTS AND DAMAGES.**—The Attorney General, on request of the Secretary after a finding by the Secretary of destruction, loss, or injury to a System unit resource or a finding that absent the undertaking of a response action, destruction, loss, or injury to a System unit resource would have occurred, may bring a civil action in United States district court against any person or instrumentality that may be liable under section 100722 of this title for response costs and damages. The Secretary shall submit a request for the civil action to the Attorney General whenever a person may be liable or an instrumentality may be liable in rem for those costs and damages under section 100722 of this title.

(b) **RESPONSE ACTIONS AND ASSESSMENT OF DESTRUCTION, LOSS, OR INJURY.**—

(1) **ACTIONS TO PREVENT OR MINIMIZE DESTRUCTION, LOSS, OR INJURY.**—The Secretary shall undertake all necessary actions to—

(A) prevent or minimize the destruction, loss of, or injury to System unit resources; or

(B) minimize the imminent risk of destruction, loss, or injury to System unit resources.

(2) **ASSESSMENT AND MONITORING.**—The Secretary shall assess and monitor destruction, loss, or injury to System unit resources.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3107.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|-----------------------------------------------------|
| 100723 | 16 U.S.C. 19jj–2. | Pub. L. 101–337, § 3, July 27, 1990, 104 Stat. 380. |

In this section, the words “destruction, loss, or injury” are substituted for “damage” in subsection (a) and for “damages” in subsection (b) for consistency in the new chapter and to distinguish destruction, loss, or injury from damages recovered in a civil action.