

(Pub. L. 100-478, title II, §2306, Oct. 7, 1988, 102 Stat. 2323; Pub. L. 102-440, title III, §302, Oct. 23, 1992, 106 Stat. 2234; Pub. L. 105-217, §2, Aug. 5, 1998, 112 Stat. 911; Pub. L. 107-111, §§2, 3, Jan. 8, 2002, 115 Stat. 2095; Pub. L. 107-141, §5(b)(2)(B), Feb. 12, 2002, 116 Stat. 14; Pub. L. 110-132, §2(b), (c), Dec. 6, 2007, 121 Stat. 1360.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-132, §2(c), substituted “2007 through 2012” for “2001, 2002, 2003, 2004, 2005, 2006, and 2007”.

Subsec. (b). Pub. L. 110-132, §2(b), substituted “\$100,000” for “\$80,000”.

2002—Subsec. (b). Pub. L. 107-141 made technical amendment to reference in original act which appears in two places in text as reference to this chapter.

Pub. L. 107-111 designated existing provisions as subsec. (a), inserted heading, substituted “is authorized” for “are authorized” and “2001, 2002, 2003, 2004, 2005, 2006, and 2007” for “1997, 1998, 1999, 2000, 2001, and 2002”, and added subsec. (b).

1998—Pub. L. 105-217 substituted “fiscal years 1997, 1998, 1999, 2000, 2001, and 2002” for “fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998”.

1992—Pub. L. 102-440 substituted “fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998” for “fiscal years 1989, 1990, 1991, 1992, and 1993”.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-141, §5(b)(2), Feb. 12, 2002, 116 Stat. 14, provided that the amendment by section 5(b)(2) of Pub. L. 107-141 is effective on the day after Jan. 8, 2002.

§ 4246. Multinational Species Conservation Fund

In fiscal year 1999 and thereafter, donations to provide assistance under section 5304 of this title, part I of the African Elephant Conservation Act (16 U.S.C. 4211 et seq.), and section 4264 of this title shall be deposited to this Fund and shall be available without further appropriation: *Provided further*, That in fiscal year 1999 and thereafter, all penalties received by the United States under section 2204 of the African Elephant Conservation Act (16 U.S.C. 4224) which are not used to pay rewards under section 2205 of the African Elephant Conservation Act (16 U.S.C. 4225) shall be deposited to this Fund to provide assistance under section 2101 of the African Elephant Conservation Act (16 U.S.C. 4211) and shall be available without further appropriation: *Provided further*, That in fiscal year 1999 and thereafter, not more than three percent of amounts appropriated to this Fund may be used by the Secretary of the Interior to administer the Fund.

(Pub. L. 105-277, div. A, §101(e) [title I], Oct. 21, 1998, 112 Stat. 2681-231, 2681-237; Pub. L. 107-111, §6(b), Jan. 8, 2002, 115 Stat. 2096; Pub. L. 107-112, §6(b), Jan. 8, 2002, 115 Stat. 2098; Pub. L. 107-141, §5(b)(1), Feb. 12, 2002, 116 Stat. 14.)

REFERENCES IN TEXT

The African Elephant Conservation Act, referred to in text, is title II of Pub. L. 100-478, Oct. 7, 1988, 102 Stat. 2315, as amended. Part I of the Act is classified generally to subchapter I (§4211 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1999,

and also as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the African Elephant Conservation Act which comprises this chapter.

AMENDMENTS

2002—Pub. L. 107-141 substituted “section 5304 of this title, part I of the African Elephant Conservation Act (16 U.S.C. 4211 et seq.), and section 4264 of this title” for “section 5304 of the Rhinoceros and Tiger Conservation Act of 1994, part I of the African Elephant Conservation Act, and section 4265 of this title”, “section 2204 of the African Elephant Conservation Act (16 U.S.C. 4224)” for “16 U.S.C. 4224”, “section 2205 of the African Elephant Conservation Act (16 U.S.C. 4225)” for “16 U.S.C. 4225”, and “section 2101 of the African Elephant Conservation Act (16 U.S.C. 4211)” for “16 U.S.C. 4211”.

Pub. L. 107-111 and Pub. L. 107-112 amended section identically, substituting “Rhinoceros and Tiger Conservation Act of 1994, part I” for “Rhinoceros and Tiger Conservation Act, subchapter I”.

CHAPTER 62A—ASIAN ELEPHANT CONSERVATION

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§ 4261. Findings

The Congress finds the following:

(1) Asian elephant populations in nations within the range of Asian elephants have continued to decline to the point that the long-term survival of the species in the wild is in serious jeopardy.

(2) The Asian elephant is listed as an endangered species under section 1533 of this title and under appendix I of the Convention on International Trade of Endangered Species of Wild Fauna and Flora.

(3) Because the challenges facing the conservation of Asian elephants are so great, resources to date have not been sufficient to cope with the continued loss of habitat and the consequent diminution of Asian elephant populations.

(4) The Asian elephant is a flagship species for the conservation of tropical forest habitats in which it is found and provides the consequent benefit from such conservation to numerous other species of wildlife including many other endangered species.

(5) Among the threats to the Asian elephant in addition to habitat loss are population fragmentation, human-elephant conflict, poaching for ivory, meat, hide, bones and teeth, and capture for domestication.

(6) To reduce, remove, or otherwise effectively address these threats to the long-term viability of populations of Asian elephants in the wild will require the joint commitment and effort of nations within the range of Asian elephants, the United States and other countries, and the private sector.

(Pub. L. 105-96, §2, Nov. 19, 1997, 111 Stat. 2150.)

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110-133, §1, Dec. 6, 2007, 121 Stat. 1362, provided that: “This Act [amending sections 4264 and 4266 of this

title] may be cited as the ‘Asian Elephant Conservation Reauthorization Act of 2007.’”

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-141, §1, Feb. 12, 2002, 116 Stat. 13, provided that: “This Act [enacting section 4265a of this title, amending sections 3709, 4214, 4245, 4246, 4263, 4265, and 4266 of this title, and enacting provisions set out as a note under section 4214 of this title] may be cited as the ‘Asian Elephant Conservation Reauthorization Act of 2002.’”

SHORT TITLE

Pub. L. 105-96, §1, Nov. 19, 1997, 111 Stat. 2150, provided that: “This Act [enacting this chapter] may be cited as the ‘Asian Elephant Conservation Act of 1997.’”

§ 4262. Purposes

The purposes of this chapter are the following:

- (1) To perpetuate healthy populations of Asian elephants.
- (2) To assist in the conservation and protection of Asian elephants by supporting the conservation programs of Asian elephant range states and the CITES Secretariat.
- (3) To provide financial resources for those programs.

(Pub. L. 105-96, §3, Nov. 19, 1997, 111 Stat. 2150.)

§ 4263. Definitions

In this chapter:

(1) The term “CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and its appendices.

(2) The term “conservation” means the use of methods and procedures necessary to bring Asian elephants to the point at which there are sufficient populations in the wild to ensure that the species does not become extinct, including all activities associated with scientific resource management, such as conservation, protection, restoration, acquisition, and management of habitat; research and monitoring of known populations; assistance in the development of management plans for managed elephant ranges; CITES enforcement; law enforcement through community participation; translocation of elephants; conflict resolution initiatives; and community outreach and education.

(3) The term “Fund” means the account established by division A, section 101(e), title I of Public Law 105-277 under the heading “multinational species conservation fund” [16 U.S.C. 4246].

(4) The term “Secretary” means the Secretary of the Interior.

(5) The term “Administrator” means the Administrator of the Agency for International Development.

(Pub. L. 105-96, §4, Nov. 19, 1997, 111 Stat. 2151; Pub. L. 107-141, §5(a)(1), Feb. 12, 2002, 116 Stat. 14.)

REFERENCES IN TEXT

Division A, section 101(e), title I of Public Law 105-277, referred to in par. (3), is Pub. L. 105-277, div. A, §101(e) [title I], Oct. 21, 1998, 112 Stat. 2681-231, 2681-232. Provisions under the heading “MULTINATIONAL SPECIES CONSERVATION FUND” in Pub. L. 105-277, §101(e) [title I]

appear at 112 Stat. 2681-237 and are classified in part to section 4246 of this title.

AMENDMENTS

2002—Par. (3). Pub. L. 107-141 substituted “the account established by division A, section 101(e), title I of Public Law 105-277 under the heading ‘multinational species conservation fund’” for “the Asian Elephant Conservation Fund established under section 4265(a) of this title”.

§ 4264. Asian elephant conservation assistance

(a) In general

The Secretary, subject to the availability of funds and in consultation with the Administrator, shall use amounts in the Fund to provide financial assistance for projects for the conservation of Asian elephants for which final project proposals are approved by the Secretary in accordance with this section.

(b) Project proposal

Any relevant wildlife management authority of a nation within the range of Asian elephants whose activities directly or indirectly affect Asian elephant populations, the CITES Secretariat, or any person with demonstrated expertise in the conservation of Asian elephants, may submit to the Secretary a project proposal under this section. Each proposal shall include the following:

- (1) The name of the individual responsible for conducting the project.
- (2) A succinct statement of the purposes of the project.
- (3) A description of the qualifications of the individuals who will conduct the project.
- (4) An estimate of the funds and time required to complete the project.
- (5) Evidence of support of the project by appropriate governmental entities of countries in which the project will be conducted, if the Secretary determines that the support is required for the success of the project.
- (6) Information regarding the source and amount of matching funding available to the applicant.
- (7) Any other information the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this chapter.

(c) Project review and approval

(1) In general

Within 30 days after receiving a final project proposal, the Secretary shall provide a copy of the proposal to the Administrator. The Secretary shall review each final project proposal to determine if it meets the criteria set forth in subsection (d).

(2) Consultation; approval or disapproval

Not later than 6 months after receiving a final project proposal, and subject to the availability of funds, the Secretary, after consulting with the Administrator, shall—

- (A) request written comments on the proposal from each country within which the project is to be conducted;
- (B) after requesting those comments, approve or disapprove the proposal; and
- (C) provide written notification of that approval or disapproval to the person who submitted the proposal and the Administrator.

(d) Criteria for approval

The Secretary may approve a final project proposal under this section if the project will enhance programs for conservation of Asian elephants by assisting efforts to—

- (1) implement conservation programs;
- (2) address the conflicts between humans and elephants that arise from competition for the same habitat;
- (3) enhance compliance with provisions of CITES and laws of the United States or a foreign country that prohibit or regulate the taking or trade of Asian elephants or regulate the use and management of Asian elephant habitat;
- (4) develop sound scientific information on the condition of Asian elephant habitat, Asian elephant population numbers and trends, or the threats to such habitat, numbers, or trends; or
- (5) promote cooperative projects on those topics with other foreign governments, affected local communities, nongovernmental organizations, or others in the private sector.

(e) Project sustainability

To the maximum extent practical, in determining whether to approve project proposals under this section, the Secretary shall give consideration to projects which will enhance sustainable integrated conservation development programs to ensure effective, long-term conservation of Asian elephants.

(f) Project reporting

Each person who receives assistance under this section for a project shall provide periodic reports, as the Secretary considers necessary, to the Secretary and the Administrator. Each report shall include all information required by the Secretary, after consulting with the Administrator, for evaluating the progress and success of the project.

(g) Matching funds

In determining whether to approve project proposals under this section, the Secretary shall give priority to those projects for which there exists some measure of matching funds.

(h) Limitation on use for captive breeding

Amounts provided as a grant under this chapter may not be used for captive breeding of Asian elephants other than for release in the wild.

(Pub. L. 105–96, §5, Nov. 19, 1997, 111 Stat. 2151; Pub. L. 110–133, §2(a), Dec. 6, 2007, 121 Stat. 1362.)

AMENDMENTS

2007—Subsec. (c)(2)(C). Pub. L. 110–133 substituted “and the Administrator” for “, the Administrator, and each of those countries”.

§ 4265. Acceptance and use of donations

The Secretary may accept and use donations to provide assistance under section 4264 of this title. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Fund.

(Pub. L. 105–96, §6, Nov. 19, 1997, 111 Stat. 2153; Pub. L. 107–141, §5(a)(2), Feb. 12, 2002, 116 Stat. 14.)

AMENDMENTS

2002—Pub. L. 107–141 substituted “Acceptance and use of donations” for “Asian Elephant Conservation Fund” as section catchline, struck out subsecs. (a) to (c), which related to establishment, deposits into, and use of the Asian Elephant Conservation Fund, redesignated subsec. (d) as entire section and struck out subsec. heading.

§ 4265a. Advisory group**(a) In general**

To assist in carrying out this chapter, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of Asian elephants.

(b) Public participation**(1) Meetings**

The Advisory Group shall—

- (A) ensure that each meeting of the advisory group is open to the public; and
- (B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) Notice

The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) Minutes

Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) Exemption from Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

(Pub. L. 105–96, §7, as added Pub. L. 107–141, §4, Feb. 12, 2002, 116 Stat. 13.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 7 of Pub. L. 105–96 was renumbered section 8 and is classified to section 4266 of this title.

§ 4266. Authorization of appropriations**(a) In general**

There is authorized to be appropriated to the Fund \$5,000,000 for each of fiscal years 2007 through 2012 to carry out this chapter, which may remain available until expended.

(b) Administrative expenses

Of amounts available each fiscal year to carry out this chapter, the Secretary may expend not more than 3 percent or \$100,000, whichever is greater, to pay the administrative expenses necessary to carry out this chapter.

(Pub. L. 105–96, §8, formerly §7, Nov. 19, 1997, 111 Stat. 2153; renumbered §8 and amended Pub. L. 107–141, §§2–4, Feb. 12, 2002, 116 Stat. 13; Pub. L. 110–133, §2(b), (c), Dec. 6, 2007, 121 Stat. 1362.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-133, §2(c), substituted “2007 through 2012” for “2001, 2002, 2003, 2004, 2005, 2006, and 2007”.

Subsec. (b). Pub. L. 110-133, §2(b), substituted “\$100,000” for “\$80,000”.

2002—Pub. L. 107-141, §3, designated existing provisions as subsec. (a), inserted heading, substituted “There is authorized” for “There are authorized”, and added subsec. (b).

Pub. L. 107-141, §2, substituted “2001, 2002, 2003, 2004, 2005, 2006, and 2007” for “1998, 1999, 2000, 2001, and 2002”.

CHAPTER 63—FEDERAL CAVE RESOURCES PROTECTION

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§ 4301. Findings, purposes, and policy

(a) Findings

The Congress finds and declares that—

(1) significant caves on Federal lands are an invaluable and irreplaceable part of the Nation’s natural heritage; and

(2) in some instances, these significant caves are threatened due to improper use, increased recreational demand, urban spread, and a lack of specific statutory protection.

(b) Purposes

The purposes of this chapter are—

(1) to secure, protect, and preserve significant caves on Federal lands for the perpetual use, enjoyment, and benefit of all people; and

(2) to foster increased cooperation and exchange of information between governmental authorities and those who utilize caves located on Federal lands for scientific, education, or recreational purposes.

(c) Policy

It is the policy of the United States that Federal lands be managed in a manner which protects and maintains, to the extent practical, significant caves.

(Pub. L. 100-691, §2, Nov. 18, 1988, 102 Stat. 4546.)

SHORT TITLE

Pub. L. 100-691, §1, Nov. 18, 1988, 102 Stat. 4546, provided that: “This Act [enacting this chapter] may be referred to as the ‘Federal Cave Resources Protection Act of 1988.’”

LECHUGUILLA CAVE PROTECTION

Pub. L. 103-169, Dec. 2, 1993, 107 Stat. 1983, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Lechuguilla Cave Protection Act of 1993’.

“SEC. 2. FINDING.

“Congress finds that Lechuguilla Cave and adjacent public lands have internationally significant scientific, environmental, and other values, and should be re-

tained in public ownership and protected against adverse effects of mineral exploration and development and other activities presenting threats to the areas.

“SEC. 3. LAND WITHDRAWAL.

“(a) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the boundaries of the cave protection area described in subsection (b) are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

“(b) LAND DESCRIPTION.—The cave protection area referred to in subsection (a) shall consist of approximately 6,280 acres of lands in New Mexico as generally depicted on the map entitled ‘Lechuguilla Cave Protection Area’ numbered 130/80,055 and dated April 1993.

“(c) PUBLICATION, FILING, CORRECTION, AND INSPECTION.—(1) As soon as practicable after the date of enactment of this Act [Dec. 2, 1993], the Secretary of the Interior (hereinafter referred to as the ‘Secretary’) shall publish in the Federal Register the legal description of the lands withdrawn under subsection (a) and shall file such legal description and a detailed map with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

“(2) Such map and legal description shall have the same force and effect as if included in this Act except that the Secretary may correct clerical and typographical errors.

“(3) Copies of such map and legal description shall be available for inspection in the appropriate offices of the Bureau of Land Management.

“SEC. 4. MANAGEMENT OF EXISTING LEASES.

“(a) SUSPENSION.—The Secretary shall not permit any new drilling on or involving any Federal mineral or geothermal lease within the cave protection area referred to in section 3(a) until the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement, or for 12 months after the date of enactment of this Act [Dec. 2, 1993], whichever occurs first.

“(b) AUTHORITY TO CANCEL EXISTING MINERAL OR GEOTHERMAL LEASES.—Upon the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement and in order to protect Lechuguilla Cave or other cave resources, the Secretary is authorized to—

“(1) cancel any Federal mineral or geothermal lease in the cave protection area referred to in section 3(a); or

“(2) enter into negotiations with the holder of a Federal mineral or geothermal lease in the cave protection area referred to in section 3(a) to determine appropriate compensation, if any, for the complete or partial termination of such lease.

“SEC. 5. ADDITIONAL PROTECTION AND RELATION TO OTHER LAWS.

“(a) IN GENERAL.—In order to protect Lechuguilla Cave or Federal lands within the cave protection area, the Secretary, subject to valid existing rights, may limit or prohibit access to or across lands owned by the United States or prohibit the removal from such lands of any mineral, geological, or cave resources: *Provided*, That existing access to private lands within the cave protection area shall not be affected by this subsection.

“(b) NO EFFECT ON PIPELINES.—Nothing in this title [Act] shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing capacity of the existing pipeline; or prohibiting the renewal of such right-of-way within the cave protection area referred to in section 3(a).