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.


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.


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.


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

2007—Subsec. (a). Pub. L. 110–133, §3, designated existing provisions as subsec. (a), inserted heading, substituted “There is authorized” for “There are authorized”, and added subsec. (b).

CHAPTER 63—FEDERAL CAVE RESOURCES PROTECTION

Sec.
4301. Findings, purposes, and policy.
4302. Definitions.
4303. Management actions.
4304. Confidentiality of information concerning nature and location of significant caves.
4305. Collection and removal from Federal caves.
4306. Prohibited acts and criminal penalties.
4307. Civil penalties.
4308. Miscellaneous provisions.
4309. Savings provision.
4310. Establishment of Cave Research Program.

§ 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, educational, 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
Section 1 of Pub. L. 100–691 provided that: “This Act [enacting this chapter] may be referred to as the ‘Federal Cave Resources Protection Act of 1988’.”

LECHUGILLA CAVE PROTECTION
“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 retained in public ownership and protected against adverse effects of mineral exploration and development and other activities presenting threats to the area.

“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);

“(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).

“(c) RELATION TO OTHER LAWS.—Nothing in this Act shall be construed as increasing or diminishing the ability of any party to seek compensation pursuant to other applicable law, including but not limited to the Tucker Act (28 U.S.C. 1491), or as precluding any defenses or claims otherwise available to the United States in connection with any action seeking such compensation from the United States.

“SEC. 6. AUTHORIZATION OF APPROPRIATIONS.
“There is hereby authorized to be appropriated such sums as may be necessary to carry out this Act: Provided, That no funds shall be made available except to the extent, or in such amounts as are provided in advance in appropriation Acts.”

§ 4302. Definitions
For purposes of this chapter:

(1) Cave
The term “cave” means any naturally occurring void, cavity, recess, or system of interconnected passages which occurs beneath the surface of the earth or within a cliff or ledge (including any cave resource therein, but not including any vug, mine, tunnel, aqueduct, or other manmade excavation) and which is large enough to permit an individual to enter, whether or not the entrance is naturally formed or manmade. Such term shall include any natural pit, sinkhole, or other feature which is an extension of the entrance.

(2) Federal lands
The term “Federal lands” means lands of Indian tribes or Indian individuals which are either held in trust by the United States for the benefit of an Indian tribe or subject to a restriction against alienation imposed by the United States.

(3) Indian lands
The term “Indian lands” means lands of Indian tribes or Indian individuals which are either held in trust by the United States for the benefit of an Indian tribe or subject to a restriction against alienation imposed by the United States.

(4) Indian tribe
The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaskan Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims settlement Act (43 U.S.C. 1601 et seq.).

(5) Cave resource
The term “cave resource” includes any material or substance occurring naturally in caves on Federal lands, such as animal life, plant life, paleontological deposits, sediments, minerals, speleogens, and speleothems.

(6) Secretary
The term “Secretary” means the Secretary of Agriculture or the Secretary of the Interior, as appropriate.

1 So in original. Probably should be capitalized.
(7) Speleothem

The term “speleothem” means any natural mineral formation or deposit occurring in a cave or lava tube, including but not limited to any stalactite, stalagmite, helictite, cave flower, flowstone, concretion, drapery, rimstone, or formation of clay or mud.

(8) Speleoegen

The term “speleoegen” means relief features on the walls, ceiling, and floor of any cave or lava tube which are part of the surrounding bedrock, including but not limited to anastomoses, scallops, meander niches, petromorphs and rock pendants in solution caves and similar features unique to volcanic caves.

REFERENCES IN TEXT


§ 4303. Management actions

(a) Regulations

Not later than nine months after November 18, 1988, the Secretary shall issue such regulations as he deems necessary to achieve the purposes of this chapter. Regulations shall include, but not be limited to, criteria for the identification of significant caves. The Secretaries shall cooperate and consult with one another in preparation of the regulations. To the extent practical, regulations promulgated by the respective Secretaries should be similar.

(b) In general

The Secretary shall take such actions as may be necessary to further the purposes of this chapter. Those actions shall include (but need not be limited to)—

(1) identification of significant caves on Federal lands:

(A) The Secretary shall prepare an initial list of significant caves for lands under his jurisdiction not later than one year after the publication of final regulations using the significance criteria defined in such regulations. Such a list shall be developed after consultation with appropriate private sector interests, including cavers.

(B) The initial list of significant caves shall be updated periodically, after consultation with appropriate private sector interests, including cavers. The Secretary shall prescribe by policy or regulation the requirements and process by which the initial list will be updated, including management measures to assure that caves under consideration for the list are protected during the period of consideration. Each cave recommended to the Secretary by interested groups for possible inclusion on the list of significant caves shall be considered by the Secretary according to the requirements prescribed pursuant to this paragraph, and shall be added to the list if the Secretary determines that the cave meets the criteria for significance as defined by the regulations.

(2) regulation or restriction of use of significant caves, as appropriate;

(3) entering into volunteer management agreements with persons of the scientific and recreational caving community; and

(4) appointment of appropriate advisory committees.

(c) Planning and public participation

The Secretary shall—

(1) ensure that significant caves are considered in the preparation or implementation of any land management plan if the preparation or revision of the plan began after November 18, 1988; and

(2) foster communication, cooperation, and exchange of information between land managers, those who utilize caves, and the public.

§ 4304. Confidentiality of information concerning nature and location of significant caves

(a) In general

Information concerning the specific location of any significant cave may not be made available to the public under section 552 of title 5 unless the Secretary determines that disclosure of such information would further the purposes of this chapter and would not create a substantial risk of harm, theft, or destruction of such cave.

(b) Exceptions

Notwithstanding subsection (a) of this section, the Secretary may make available information regarding significant caves upon the written request by Federal and State governmental agencies or bona fide educational and research institutions. Any such written request shall, at a minimum—

(1) describe the specific site or area for which information is sought;

(2) explain the purpose for which such information is sought; and

(3) include assurances satisfactory to the Secretary that adequate measures are being taken to protect the confidentiality of such information and to ensure the protection of the significant cave from destruction by vandalism and unauthorized use.

§ 4305. Collection and removal from Federal caves

(a) Permit

The Secretary is authorized to issue permits for the collection and removal of cave resources under such terms and conditions as the Secretary may impose, including the posting of bonds to assure compliance with the provisions of any permit:

(1) Any permit issued pursuant to this section shall include information concerning the time, scope, location, and specific purpose of the proposed collection, removal or associated activity, and the manner in which such collection, removal, or associated activity is to be performed must be provided.

(2) The Secretary may issue a permit pursuant to this subsection only if he determines...
that the proposed collection or removal activities are consistent with the purposes of this chapter, and with other applicable provisions of law.

(b) Revocation of permit

Any permit issued under this section shall be revoked by the Secretary upon a determination by the Secretary that the permittee has violated any provision of this chapter, or has failed to comply with any other condition upon which the permit was issued. Any such permit shall be revoked by the Secretary upon assessment of a civil penalty against the permittee pursuant to section 4307 of this title or upon the permittee’s conviction under section 4306 of this title. The Secretary may refuse to issue a permit under this section to any person who has violated any provision of this chapter or who has failed to comply with any condition of a prior permit.

(c) Transferability of permits

Permits issued under this chapter are not transferable.

(d) Cave resources located on Indian lands

(1)(A) Upon application by an Indian tribe, the Secretary is authorized to delegate to the tribe all authority of the Secretary under this section with respect to issuing and enforcing permits for the collection or removal of any cave resource, or to carrying out activities associated with such collection or removal, from any cave resource located on the affected Indian lands.

(B) In the case of any permit issued by the Secretary for the collection or removal of any cave resource, or to carry out activities associated with such collection or removal, from any cave resource located on Indian lands (other than permits issued pursuant to subparagraph (A)), the permit may be issued only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such reasonable terms and conditions as may be requested by such Indian or Indian tribe.

(2) If the Secretary determines that issuance of a permit pursuant to this section may result in harm to, or destruction of, any religious or cultural site, the Secretary, prior to issuing such permit, shall notify any Indian tribe which may consider the site as having significant religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 4304 of this title.

(3) A permit shall not be required under this section for the collection or removal of any cave resource located on Indian lands or activities associated with such collection, by the Indian or Indian tribe owning or having jurisdiction over such lands.

(e) Effect of permit

No action specifically authorized by a permit under this section shall be treated as a violation of section 4306 of this title.

§ 4307. Civil penalties

(a) Assessment

(1) The Secretary may issue an order assessing a civil penalty against any person who violates any prohibition contained in this chapter, any regulation promulgated pursuant to this chapter, or any permit issued under this chapter. Before issuing such an order, the Secretary shall provide such person written notice and the opportunity to request a hearing on the record within 30 days. Each violation shall be a separate offense, even if such violations occurred at the same time.

(2) The amount of such civil penalty shall be determined by the Secretary taking into account appropriate factors, including (A) the seriousness of the violation; (B) the economic benefit (if any) resulting from the violation; (C) any history of such violations; and (D) such other matters as the Secretary deems appropriate. The maximum fine permissible under this section is $10,000.

(b) Judicial review

Any person aggrieved by an assessment of a civil penalty under this section may file a petition for judicial review of such assessment with the United States District Court for the District of Columbia or for the district in which the violation occurred. Such a petition shall be filed within the 30-day period beginning on the date the order assessing the civil penalty was issued.

So in original. Probably should be “subsection”. 
(c) Collection
If any person fails to pay an assessment of a civil penalty—
(1) within 30 days after the order was issued under subsection (a) of this section, or
(2) if the order is appealed within such 30-day period, within 30 days after court has entered a final judgment in favor of the Secretary under subsection (b) of this section,
the Secretary shall notify the Attorney General and the Attorney General shall bring a civil action in an appropriate United States district court to recover the amount of penalty assessed (plus costs, attorney’s fees, and interest at currently prevailing rates from the date the order was issued or the date of such final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(d) Subpoenas
The Secretary may issue subpoenas in connection with proceedings under this subsection compelling the attendance and testimony of witnesses and subpoenas duces tecum, and may request the Attorney General to bring an action to enforce any subpoena under this section. The district courts shall have jurisdiction to enforce such subpoenas and impose sanctions.

§ 4308. Miscellaneous provisions
(a) Authorization of appropriations
There are authorized to be appropriated $100,000 to carry out the purposes of this chapter.
(b) Effect on land management plans
Nothing in this chapter shall require the amendment or revision of any land management plan the preparation of which began prior to November 18, 1988.
(c) Fund
Any money collected by the United States as permit fees for collection and removal of cave resources; received by the United States as a result of the forfeiture of a bond or other security by a permittee who does not comply with the requirements of such permit issued under section 4306 of this title; or collected by the United States by way of civil penalties or criminal fines for violations of this chapter shall be placed in a special fund in the Treasury. Such moneys shall be available for obligation or expenditure (to the extent provided for in advance in appropriation Acts) as determined by the Secretary for the improved management, benefit, repair, or restoration of significant caves located on Federal lands.
(d) Existing rights
Nothing in this chapter shall be deemed to affect the full operation of the mining and mineral leasing laws of the United States, or otherwise affect valid existing rights.

§ 4309. Savings provision
(a) Water
Nothing in this chapter shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this chapter—
(1) affect the rights or jurisdiction of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any ground water resource;
(2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States; or
(3) alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.
(b) Fish and wildlife
Nothing in this chapter shall be construed as affecting the jurisdiction or responsibilities of the States with respect to fish and wildlife.

§ 4310. Establishment of Cave Research Program
(a) Establishment
In order to provide for needed research relating to cave resources on certain lands in the United States, the Secretary of the Interior, acting through the Director of the National Park Service shall establish and administer a Cave Research Program (hereinafter in this section referred to as the “Program”). The Program shall include the orderly and scholarly collection, analysis, and dissemination of research material related to caves in lands managed by the National Park Service including, but not limited to, Carlsbad Caverns National Park and the Capitan Reef area.

(b) Functions
The Program shall produce educational and interpretive information and materials vital to public understanding of cave geology, assist students and researchers, and provide for a comprehensive evaluation of cave resources and measures needed for their protection.

(c) Emphasis
The Program shall be directed primarily toward lands managed by the National Park Service, but the Secretary of the Interior may enter into cooperative agreements with other agencies or entities as may be appropriate to carry out the purposes of this section.

References in Text
This section, referred to in subsec. (a) and (c), was in the original “this title” meaning title II of Pub. L. 101-578, Nov. 15, 1990, 104 Stat. 2859, which enacted this section and provisions set out as notes below. For complete classification of title II to the Code, see Tables.

Codification
Section was not enacted as part of the Federal Cave Resources Protection Act of 1988 which comprises this chapter.

References in Text
The mining laws and mineral leasing laws of the United States, referred to in subsec. (d), are classified generally to Title 30, Mineral Lands and Mining.
SEC. 3. ESTABLISHMENT OF THE INSTITUTE.

The National Cave and Karst Research Institute (referred to in this Act as the 'Institute').

SEC. 4. ADMINISTRATION OF THE INSTITUTE.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

CHAPTER 64—NORTH AMERICAN WETLANDS CONSERVATION

§ 4401. Findings and statement of purpose

(a) Findings

The Congress finds and declares that—

(1) the maintenance of healthy populations of migratory birds in North America is dependent on the protection, restoration, and management of wetland ecosystems and associated habitats in Canada, as well as in the United States and Mexico;

(2) wetland ecosystems provide essential and significant habitat for fish, shellfish, and other wildlife of commercial, recreational, scientific, and aesthetic values;

(3) almost 35 per centum of all rare, threatened, and endangered species of animals are dependent on wetland ecosystems;