

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3710

To strengthen the protections afforded to units of the National Park System and certain other nationally significant historic and natural places, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 1993

Mr. VENTO introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To strengthen the protections afforded to units of the National Park System and certain other nationally significant historic and natural places, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 This Act may be cited as the “National Parks and  
5 Landmarks Conservation Act”.

Sec. 1. Short title and table of contents.

Sec. 2. Findings.

Sec. 3. Purpose and policy.

### TITLE I—DIRECTOR OF NATIONAL PARK SERVICE

Sec. 101. Appointment and functions of National Park Service Director.

### TITLE II—NATIONAL PARK CONSERVATION

- Sec. 201. State of the national parks reports.
- Sec. 202. Research.
- Sec. 203. Resource management plans and general management plans.
- Sec. 204. National park conservation plans.
- Sec. 205. Public information.

TITLE III—NATIONAL LANDMARK CONSERVATION

- Sec. 301. Preparation of list of endangered national heritage resources.
- Sec. 302. National Landmark Conservation Agreements.

TITLE IV—FEDERAL PROGRAM CONSISTENCY AND RESOURCE PROTECTION

- Sec. 401. Federal program review.
- Sec. 402. Temporary protection authority.
- Sec. 403. Emergency authority.
- Sec. 404. Federal actions that affect national register properties.

TITLE V—MISCELLANEOUS PROVISIONS

- Sec. 501. Definitions.
- Sec. 502. Penalties and enforcement.
- Sec. 503. Relationship to other laws.
- Sec. 504. Authorization of appropriations.
- Sec. 505. Existing undertakings.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) the Nation’s heritage of unique, superlative  
4 and irreplaceable nationally significant natural and  
5 cultural resources constitutes a major source of  
6 pride, identity, and enjoyment for the people of the  
7 United States, and has gained international recogni-  
8 tion and acclaim;

9 (2) the Congress has repeatedly expressed its  
10 intent, in both generic and specific statutes and by  
11 other means, that units of the National Park Sys-  
12 tem, National Landmarks, and sites listed on the  
13 National Register of Historic Places be accorded the  
14 highest degree of protection feasible;

1           (3) many nationally significant heritage re-  
2 sources are being degraded or threatened with deg-  
3 radation, diminishing the tangible evidence of the  
4 natural and cultural history of this Nation;

5           (4) visitation at units of the National Park Sys-  
6 tem, national historic and natural landmarks, and  
7 sites listed on the National Register of Historic  
8 Places, is an increasingly important element of inter-  
9 state and foreign commerce, so that the protection  
10 and preservation of these places will make a positive  
11 contribution to the nation's economic well-being; and

12           (5) no comprehensive program exists for analyz-  
13 ing the condition of units of the National Park Sys-  
14 tem and their natural and cultural resources and  
15 other nationally significant heritage resources, or for  
16 preventing the degradation of these irreplaceable  
17 natural and cultural assets.

18 **SEC. 3. PURPOSE AND POLICY.**

19           In furtherance of the provisions of law generally ap-  
20 plicable to units of the National Park System, including  
21 the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1,  
22 2, 3, and 4), the Act of August 21, 1935 (49 Stat. 666;  
23 16 U.S.C. 461 et seq.), the National Historic Preservation  
24 Act (94 Stat. 2987; 16 U.S.C. 470 et seq.), the Act of  
25 August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 through

1 1a-7), and other provisions of law regarding the protec-  
2 tion and preservation of natural and cultural (including  
3 historical and archaeological) resources, and in order to  
4 ensure the continued contribution of such resources to the  
5 nation's social and economic well-being, it is the purpose  
6 of this Act, and shall continue to be national policy, to  
7 provide for, by exercising resource-based management, the  
8 highest degree of protection and preservation of the Na-  
9 tion's heritage of natural and cultural resources for the  
10 benefit of present and future generations.

11 **TITLE I—DIRECTOR OF**  
12 **NATIONAL PARK SERVICE**

13 **SEC. 101. APPOINTMENT AND FUNCTIONS OF NATIONAL**  
14 **PARK SERVICE DIRECTOR.**

15 (a) DIRECTOR OF NATIONAL PARK SERVICE.—There  
16 shall be within the Department of the Interior, a National  
17 Park Service headed by a Director, who shall be appointed  
18 by the President, by and with the advice and consent of  
19 the Senate; from among persons qualified, by training and  
20 experience and by demonstrated ability, to administer,  
21 protect, preserve, and interpret the natural and cultural  
22 resources of the United States as provided for by law. The  
23 Director shall be paid at the rate not to exceed the rate  
24 of basic pay payable for level IV of the Executive Schedule  
25 under section 5316 of title 5 of the United States Code.

1 The Director shall hold office for a term of 5 years and  
2 may be removed by the President only for incompetence,  
3 neglect of duty, or malfeasance in office. An individual  
4 may be reappointed for additional 5-year terms as Direc-  
5 tor.

6 (b) SUPERVISION BY SECRETARY.—In the perform-  
7 ance of their functions, the Director and the officers and  
8 employees of the National Park Service shall be respon-  
9 sible to, and subject to the supervision and direction of  
10 the Secretary but shall not be responsible to, or subject  
11 to the supervision and direction of any officer or employee,  
12 or agent of any other part of the Department of the Inte-  
13 rior.

14 (c) EMPLOYEES.—After January 1, 1994, no person  
15 may be appointed as Deputy Director, Associate Director,  
16 or Regional Director of the National Park Service (except  
17 for an Assistant Director for External Affairs) who is not  
18 at the time of appointment either a career appointee (as  
19 defined in section 3132(4) of title 5, United States Code)  
20 or in the competitive service. Other employees shall be ap-  
21 pointed subject to provisions of law applicable to appoint-  
22 ments in the competitive service, and shall be paid in ac-  
23 cordance with the provisions applicable to such service. No  
24 person whose position has been excepted from the competi-  
25 tive service, other than the Director or an individual hold-

1 ing a career reserve Senior Executive Service position,  
2 may conduct, or participate in the conduct of, any per-  
3 formance appraisal under chapter 43 of title 5 of the Unit-  
4 ed States Code for any officer or employee of the National  
5 Park Service. No person other than the Secretary may  
6 conduct, or participate in the conduct of, any such per-  
7 formance appraisal for the Director.

8 (d) INDEPENDENCE IN PROVIDING INFORMATION.—  
9 Notwithstanding any other provision of law or any rule,  
10 regulation, or policy directive, the Director shall provide  
11 any information on the request of any committee or sub-  
12 committee of Congress, by report, testimony, or otherwise,  
13 without review, clearance, or approval by any other admin-  
14 istrative authority.

## 15 **TITLE II—NATIONAL PARK** 16 **CONSERVATION**

### 17 **SEC. 201. STATE OF THE NATIONAL PARKS REPORTS.**

18 (a) REPORT.—The Director shall undertake a contin-  
19 uous program of research and monitoring to document the  
20 factors, forces, and conditions which adversely affect, or  
21 which may adversely affect, units of the National Park  
22 System. No later than 2 years after enactment of this Act  
23 and every 3 years thereafter, the Director shall prepare  
24 and transmit to the Congress a “State of the National  
25 Parks” report. Such report shall fully document the condi-

1 tion of the National Park units including appropriate  
2 baseline information and documentation of problems relat-  
3 ed to their use and management, with proposed solutions  
4 to such problems. Each report shall be transmitted to the  
5 Committee on Natural Resources of the United States  
6 House of Representatives and the Committee on Energy  
7 and Natural Resources of the United States Senate and  
8 printed as a House document. Each “State of the National  
9 Parks” report shall be a compilation and summary of re-  
10 source management plans including trends, emerging is-  
11 sues and system wide actions needed.

12 (b) CONTENTS.—Each report prepared pursuant to  
13 subsection (a) shall be based on the resource management  
14 plan for each individual unit of the National Park System  
15 and include, but not be limited to, each of the following:

16 (1) The past, current, and projected condition  
17 of the natural and cultural resources within each  
18 unit.

19 (2) All factors and forces both inside and out-  
20 side the unit which adversely affect or which may  
21 adversely affect the unit.

22 (3) Current and planned preservation and man-  
23 agement actions, including specific research projects  
24 with regard to paragraphs (1) and (2) of this sub-  
25 section.

1           (4) The accomplishments and results of the ac-  
2           tions undertaken in accordance with paragraph (3).

3           (c) PUBLIC INVOLVEMENT.—In the preparation of  
4 the “State of the National Parks” report, the Director  
5 shall solicit public involvement and comment.

6 **SEC. 202. RESEARCH.**

7           (a) ESTABLISHMENT.—The Director shall establish,  
8 within the National Park Service, a research program de-  
9 signed to—

10           (1) develop an appropriate knowledge base re-  
11           garding the natural and cultural resources of the  
12           National Park System;

13           (2) evaluate and protect such resources; and

14           (3) understand and improve the effects of  
15           human interactions with such resources.

16 The Director shall ensure that all research is comprehen-  
17 sive, current, and reflective of scholarly standards. In es-  
18 tablishing such a program, the Director shall utilize the  
19 existing personnel and facilities of the National Park Serv-  
20 ice, including the units of the National Park System, as  
21 centers for research and its dissemination. In addition, the  
22 Director shall enter into cooperative agreements with uni-  
23 versities and other educational institutions for the conduct  
24 of research and the use of such research and national park  
25 facilities for training and education. In the annual budget

1 submission, the Director shall provide a clear identifica-  
2 tion of the funds to be used for research regarding the  
3 natural and cultural resources of the National Park  
4 System.

5 (b) ASSISTANCE.—The Director is authorized to con-  
6 tract with qualified research institutions or organizations  
7 to assist the National Park Service in carrying out this  
8 Act.

9 (c) NATIONAL PARK SERVICE STAFF.—The Director  
10 shall ensure that the staffing of the National Park Service  
11 employs adequate number and distribution of personnel  
12 with sufficient scientific and professional knowledge and  
13 expertise to properly provide for the protection, manage-  
14 ment, and interpretation of the natural and cultural re-  
15 sources of each unit of the National Park System. The  
16 Director shall use systems of employee selection and devel-  
17 opment to ensure that staff can meet the rigorous stand-  
18 ards defined by the appropriate academic disciplines and  
19 normally accepted by the relevant professional societies  
20 and shall using systems of contracting which ensure that  
21 work done by contractors to the Service shall meet the  
22 same standards.

1 **SEC. 203. RESOURCE MANAGEMENT PLANS AND GENERAL**  
2 **MANAGEMENT PLANS.**

3 (a) RESOURCE MANAGEMENT PLANS.—The super-  
4 intendent of each unit of the National Park System shall  
5 maintain a current and comprehensive resource manage-  
6 ment plan. Resource management plans shall be reviewed  
7 and revised, as necessary, to conform with this subsection  
8 no less frequently than every 2 years to provide data for  
9 the “State of the National Parks” report. Such plans shall  
10 assess both natural and cultural resources of the park  
11 units, including those integral values and related resources  
12 that extend beyond the boundaries of the unit. The plans  
13 shall each include an analysis of the resources, their condi-  
14 tions, all factors which adversely affect, or may adversely  
15 affect, the resources, strategies for removing or mitigating  
16 these factors (and the costs of such removal and mitiga-  
17 tion) and a summary of accomplishments.

18 (b) CONTENTS OF GENERAL MANAGEMENT  
19 PLANS.—General management plans developed for each  
20 park unit pursuant to section 12(b) of the Act of August  
21 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 through 1a-7)  
22 shall fully consider and be prepared using the unit’s re-  
23 source management plan. General management plans and  
24 resource management plans shall be prepared in consulta-  
25 tion with other affected Federal agencies, States (includ-  
26 ing State Historic Preservation Officers), Indian tribes,

1 and local governments indigenous persons with expert  
2 knowledge of a unit's resources, and the general public.

3 (c) REVISIONS TO PLANS.—Section 12(b) of the Act  
4 of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1  
5 through 1a-7) is amended by inserting the following at  
6 the end thereof: “For the purpose of determining whether  
7 a plan needs to be revised, each such plan shall be re-  
8 viewed no less frequently than every 10 years. Where the  
9 Director determines that the availability of new informa-  
10 tion or changed circumstances requires the preparation of  
11 a new or revised plan, such new or revised plan shall be  
12 prepared and approved within 3 years after the date of  
13 such determination. Plans not fully addressing all of the  
14 elements specified in this subsection as of the date of en-  
15 actment of the National Parks and Landmarks Conserva-  
16 tion Act, shall be revised and approved no later than 10  
17 years after the date of enactment of this Act.”.

18 (d) AUTHORITY TO WITHHOLD FROM DISCLO-  
19 SURE.—The head of a Federal agency or other public offi-  
20 cial acting pursuant to this Act, after consultation with  
21 the Director, shall withhold from disclosure to the public,  
22 information about the location, character, or ownership of  
23 a historic resource if the Director and the agency jointly  
24 determine that disclosure may—

25 (1) cause a significant invasion of privacy;

1 (2) risk harm to the resources; or

2 (3) impede the use of a traditional religious site  
3 by practitioners.

4 (e) ACCESS DETERMINATION.—When the head of a  
5 Federal agency or other public official has determined that  
6 information should be withheld from the public pursuant  
7 to subsection (d), the Director, in consultation with such  
8 Federal agency head or official, shall determine who may  
9 have access to the information for the purpose of carrying  
10 out this Act.

11 **SEC. 204. NATIONAL PARK CONSERVATION PLANS.**

12 (a) DESCRIPTION.—The Director shall initiate a pro-  
13 gram to prepare National Park Conservation Plans for  
14 units of the National Park System. The purpose of prepar-  
15 ing such plans shall be to develop specific programs of co-  
16 operation among the National Park Service, other Federal  
17 agencies, State and local governments, Indian tribes, the  
18 private sector, appropriate experts, the general public, or  
19 any combination of the foregoing, to address factors,  
20 forces, and conditions that adversely affect, or that may  
21 adversely affect, units of the National Park System, as  
22 documented in the “State of the National Parks” report  
23 and—

24 (1) that arise wholly or in part outside the  
25 boundaries of a unit, or

1           (2) whose resolution is dependent in whole or  
2           part on the actions or policies of governmental agen-  
3           cies or persons other than the National Park Serv-  
4           ice.

5           (b) PREPARATION.—A National Park Conservation  
6 Plan shall be prepared by the Director in consultation with  
7 such public and private parties for the plan’s preparation  
8 and implementation. The Director shall immediately initi-  
9 ate the preparation of a National Park Conservation Plan  
10 at those units the Director determines to be in most ur-  
11 gent need of greater protection.

12          (c) PLANNING GRANTS.—The Director is authorized  
13 to make grants to State and local governments, to Indian  
14 tribes, and to private entities for the purposes of assisting  
15 in the preparation of a strategy described in subsection  
16 (a). Such grants shall not exceed \$50,000 in any fiscal  
17 year to any local government, Indian tribe or private entity  
18 or \$250,000 to any State government.

19          (d) CONTENTS.—A National Park Conservation Plan  
20 shall include each of the following:

21           (1) A description of the forces, factors, and  
22           conditions that adversely affect or that may ad-  
23           versely affect the National Park unit.

24           (2) The identification of a specific and defined  
25           geographic area in which grant assistance, coopera-

1       tive plans, and other techniques to prevent or re-  
2       move the adverse effects of Federal and non-Federal  
3       activities on the park unit and any other integral  
4       natural or cultural resources within the area will be  
5       applied.

6               (3) A detailed description of such actions nec-  
7       essary or appropriate to prevent or remove any ad-  
8       verse effect to the unit.

9               (4) Specific programs of private, local, tribal,  
10       State, and Federal actions that will implement such  
11       plans and techniques.

12       (e) APPROVAL.—The Director shall not approve any  
13       plan unless the Director finds it is consistent with sub-  
14       section (d) and makes each of the following:

15               (1) A finding that the plan has been developed  
16       with adequate opportunity, including public hear-  
17       ings, for public involvement in the preparation and  
18       review of the plan, and the public comments were re-  
19       ceived and considered in the plan or revision as pre-  
20       sented to the Director.

21               (2) A finding that each State and local govern-  
22       ment (or governments), Indian tribe, or Federal  
23       agency identified in the plan as necessary for imple-  
24       menting its provisions has the authority to imple-  
25       ment the plan and has taken such actions, or has

1 provided written commitments that it will take such  
2 actions upon approval of the plan, including the  
3 adoption of laws, ordinances, resolutions, or regula-  
4 tions, to demonstrate their intention to use such au-  
5 thority to implement the plan.

6 (3) A finding that the plan, if implemented,  
7 would prevent or remove some or all of those factors  
8 identified in the “State of the National Parks” re-  
9 port for that park unit that adversely affect, or that  
10 may adversely affect, the unit.

11 (f) CONSERVATION GRANTS TO STATE AND INDIAN  
12 TRIBES AND LOCAL GOVERNMENTS.—The Director is au-  
13 thorized to provide grants to such State and local govern-  
14 ments and Indian tribes to facilitate the implementation  
15 of the plan including technical assistance grants for the  
16 acquisition of full or partial interests in property, the con-  
17 struction of public facilities, and the preparation and the  
18 provision of such services (including interpretation) and  
19 facilities as will enhance the public’s appreciation of the  
20 park unit and any other natural, cultural, or recreational  
21 resources within the area in which the plan will be imple-  
22 mented. Such grants shall be conditioned on the Director’s  
23 receipt of specific written commitments for actions that  
24 will assist in the implementation of an approved National  
25 Park Conservation Plan. The Director is authorized to

1 suspend the provision of grants where the Director has  
2 withdrawn approval of the plan pursuant to subsection  
3 (g).

4 (g) REVIEW.—The Director shall conduct a regular  
5 review of approved plans for the purpose of ensuring that  
6 the plan continues to meet the requirements of subsections  
7 (d) and (e). Where the Director finds that a plan or its  
8 implementation no longer meets these requirements, the  
9 Director shall withdraw approval of the plan or portions  
10 thereof and provide notice of such withdrawal to the State  
11 and local governments and Indian tribes concerned. Such  
12 a withdrawal shall occur only after consultation with the  
13 affected local and State governments and Indian tribes.

14 (h) GRANT CONDITIONS.—Grants under this section  
15 shall be made only upon application of the recipient State  
16 or local government or Indian tribe and shall come from  
17 funds specifically appropriated for this purpose as author-  
18 ized by this Act. Such funds shall be in addition to any  
19 other Federal financial assistance for any other program,  
20 and shall be subject to such terms and conditions as the  
21 Director deems necessary to carry out the purposes of this  
22 section. Grants made under this section for implementa-  
23 tion of the plan may only be made for the first 5 years  
24 after the date of the Director's approval of the plan. Each  
25 grant under this section shall require the grant recipient

1 to return all grant funds in the event of any failure to  
2 comply with the terms and conditions of the grant.

3 (i) CONSISTENCY OF FEDERAL ACTIVITIES WITH  
4 NATIONAL PARK CONSERVATION PLANS.—In addition to  
5 the requirement of section 401, all Federal agencies shall  
6 conduct and support actions in a manner which is, to the  
7 maximum extent feasible, consistent with the plan ap-  
8 proved by the Director pursuant to this section. Where  
9 the Director is afforded, by law, regulation, or otherwise  
10 an opportunity to comment on an undertaking affecting  
11 a unit of the National Park System for which the Director  
12 has approved a plan, the Director shall make a finding  
13 to determine whether that undertaking is consistent with  
14 the plan.

15 **SEC. 205. PUBLIC INFORMATION.**

16 The Director shall develop a program designed to in-  
17 form visitors to units of the National Park System about  
18 the condition of those units and their resources and the  
19 actions being taken to address any factors that adversely  
20 affect, or that may adversely affect, those units.

1                   **TITLE III—NATIONAL**  
2                   **LANDMARK CONSERVATION**

3   **SEC. 301. PREPARATION OF LIST OF ENDANGERED NA-**  
4                   **TIONAL HERITAGE RESOURCES.**

5           (a) LIST.—The Director is directed to maintain a  
6 complete and current list of all National Landmarks which  
7 meet the criteria of subsection (b).

8           (b) CRITERIA FOR LISTING.—Within 1 year after the  
9 date of enactment of this Act, the Director shall promul-  
10 gate criteria for designating a National Landmark as en-  
11 dangered. Such criteria shall provide for the designation  
12 of a National Landmark that faces any known or reason-  
13 ably foreseeable damage, harm, or destruction. In develop-  
14 ing these criteria, the Director shall consult with affected  
15 Federal agencies, businesses, organizations, experts, and  
16 the general public as well as seek and consider public com-  
17 ments.

18           (c) PROCEDURES FOR LISTING.—The Director shall  
19 list under this section those National Landmarks which  
20 meet the criteria established pursuant to subsection (b)  
21 following a review of such information as the Director  
22 deems necessary. No site shall be listed until the Director  
23 has—

24                   (1) advised the Governor of the State (or  
25                   States), the chief elected official of the local govern-

1       ment (or governments) in which the site is located,  
2       and any affected Indian tribe; and

3               (2) provided a reasonable opportunity for public  
4       comment.

5       Such notice and opportunity to comment prior to designa-  
6       tion may be waived by the Director in emergency situa-  
7       tions. In such cases, notice and opportunity to comment  
8       shall take place at the earliest possible opportunity follow-  
9       ing listing.

10       (d) REQUEST FOR LISTING.—Upon the request of  
11       any person, including the owner of the National Land-  
12       mark, or the appropriate local or State government or In-  
13       dian tribe, the Director shall undertake a review of a site  
14       to determine whether it meets the criteria of subsection  
15       (b). The Director shall, by regulation, prescribe the infor-  
16       mation to be included in a request submitted under this  
17       section and notice of all such requests shall be published  
18       in the Federal Register. Such requests shall be available  
19       for public inspection. The Director shall make such deter-  
20       mination no later than 30 days following the receipt of  
21       a request which complies with such regulations. Upon de-  
22       termining that a site meets such criteria, the Director  
23       shall place it on the list of endangered places.

24       (e) EXPEDITED LANDMARK DESIGNATION.—At the  
25       request of the Governor of a State, the Director, using

1 applicable criteria, shall consider on an expedited basis  
2 whether a particular resource should be designated a Na-  
3 tional Landmark. In any such case the Director shall  
4 make such determination within 30 days after receipt of  
5 such request. In any such case the Secretary's Advisory  
6 Board shall be consulted as fully as possible.

7 (f) PUBLICATION AND REPORT TO CONGRESS.—The  
8 Director shall annually publish and transmit to the Speak-  
9 er of the House of Representatives and to the President  
10 of the Senate a copy of the list maintained under sub-  
11 section (a) of section 301 of this Act, together with a re-  
12 port explaining the basis for listing each National Land-  
13 mark and specifying the actions that are being taken to  
14 address the damage, harm, or destruction of the National  
15 Landmark. The list under this section shall replace the  
16 annual listing required under section 8 of the Act of Au-  
17 gust 18, 1970, (16 U.S.C. 1a-5).

18 (g) REGULATIONS.—The Director shall promulgate  
19 regulations for the implementation of this section within  
20 1 year after the enactment of this Act.

21 **SEC. 302. NATIONAL LANDMARK CONSERVATION AGREE-**  
22 **MENTS.**

23 (a) AGREEMENTS.—For each National Landmark  
24 the Director is authorized to enter into a binding written  
25 agreement with the owner of the landmark and with—

1           (1) the State, the local government (or in the  
2 case of a site located within multiple jurisdiction,  
3 such governments) within which the National Land-  
4 mark is located, and affected Indian tribes, or

5           (2) any combination of such owners, govern-  
6 ments, and tribes as the Director considers appro-  
7 priate

8 that provides for the long-term conservation of the site.  
9 Such an agreement shall specify actions needed to pre-  
10 serve the National Landmark. For each National Land-  
11 mark listed as endangered pursuant to section 301, the  
12 Director shall seek to enter such an agreement as prompt-  
13 ly as possible after the listing of such landmark.

14       (b) PLANNING GRANTS.—The Director is authorized  
15 to make grants for the purpose of assisting owners, State  
16 and local governments, and Indian tribes in the prepara-  
17 tion of agreements described in subsection (a). Grants for  
18 any project under this subsection may not exceed  
19 \$100,000 for a single year and such grants for may not  
20 exceed \$500,000 for a single project. Each grant under  
21 this section shall require the grant recipient to return all  
22 grant funds in the event of any failure to comply with the  
23 terms and conditions of the grant.

24       (c) CONSERVATION GRANTS.—Upon the execution of  
25 an agreement the Director may provide grants and tech-

1 nical assistance to owners, State and local governments  
2 and Indian tribes to implement the agreement. Grants  
3 may include grants for the acquisition of full or partial  
4 interests in property, the restoration of properties and the  
5 provision of such services and facilities as will enhance the  
6 public's appreciation of the National Landmark. The  
7 amount of any such grant shall not exceed 50 percent of  
8 the total cost of implementing an agreement. Such grants  
9 shall also be conditioned on the Director's receipt of spe-  
10 cific commitments, including but not limited to local plan-  
11 ning actions and property (including easement) acquisition  
12 or donation, that will assist in the implementation of the  
13 agreement. Not more than 10 percent of the amounts ap-  
14 propriated for grants under this section, and not more  
15 than \$1,000,000, may be used for a single project.

16 (d) GRANT CONDITIONS.—Grants under this section  
17 shall be made only upon application of the recipient and  
18 shall be available only to the extent funds are specifically  
19 appropriated for grants under this section. Such funds  
20 shall be in addition to any other Federal financial assist-  
21 ance for any other program, and shall be subject to such  
22 terms and conditions as the Director deems necessary to  
23 carry out the purposes of this section. Each grant under  
24 this section shall require the grant recipient to return all

1 grant funds in the event of any failure to comply with the  
2 terms and conditions of the grant.

3 (e) CONSISTENCY OF FEDERAL ACTIVITIES WITH  
4 NATIONAL LANDMARK CONSERVATION AGREEMENTS.—  
5 In addition to the requirements of section 401, all Federal  
6 agencies shall conduct and support actions in a manner  
7 which is, to the maximum extent practicable, consistent  
8 with any agreements under this section. Where the Direc-  
9 tor is afforded an opportunity to comment on an undertak-  
10 ing affecting a National Landmark resource for which the  
11 Director has entered into an agreement under this section,  
12 the Director shall make a finding of the consistency of  
13 that undertaking with the agreement.

14 **TITLE IV—FEDERAL PROGRAM**  
15 **CONSISTENCY AND RE-**  
16 **SOURCE PROTECTION**

17 **SEC. 401. FEDERAL PROGRAM REVIEW.**

18 (a) PROTECTION FROM DAMAGE, HARM, OR DE-  
19 STRUCTION.—No agency may assist, license, exempt, or  
20 otherwise conduct or approve a Federal or federally-as-  
21 sisted undertaking that will, or is likely to, cause damage  
22 or harm to, or destruction of, a National Heritage Re-  
23 source (as defined in subsection (b)).

1 (b) NATIONAL HERITAGE RESOURCES.—For the  
2 purpose of this Act, National Heritage Resources are each  
3 of the following—

4 (1) Units of the National Park System.

5 (2) Places designated as National Historic  
6 Landmarks.

7 (3) Places designated as National Natural  
8 Landmarks.

9 The Director shall maintain a current listing of National  
10 Heritage Resources and publish such listing as appro-  
11 priate.

12 (c) PROCEDURES.—Before proceeding with any pro-  
13 posed Federal or federally-assisted undertaking that may  
14 cause damage or harm to, or destruction of, a National  
15 Heritage Resource, the agency shall—

16 (1) promptly notify the appropriate Federal,  
17 State and local governmental officials, Indian tribes,  
18 and interested members of the public of the under-  
19 taking at the time it initiates planning the undertak-  
20 ing, and at the time of preparation of documents re-  
21 quired pursuant to the National Environmental Pol-  
22 icy Act of 1969,

23 (2) provide the Director, the Advisory Council  
24 on Historic Preservation, and the Council on Envi-  
25 ronmental Quality (or any successor agency) a rea-

1       sonable opportunity to comment on the undertaking;  
2       and

3               (3) make a finding with respect to whether the  
4       undertaking will damage, harm, or destroy a Na-  
5       tional Heritage Resource.

6 Agency procedures implementing this section shall be con-  
7 sistent with regulations promulgated by the Director  
8 under this section. In promulgating such regulations, the  
9 Director shall utilize the procedures developed pursuant  
10 to the National Environmental Policy Act, the National  
11 Historic Preservation Act, and the regulations of the Advi-  
12 sory Council on Historic Preservation, the Council on En-  
13 vironmental Quality (or any successor agency), or any  
14 combination of these as appropriate, and such other appli-  
15 cable laws as may serve to advance the purposes of this  
16 section. In all cases, a determination under paragraph (3)  
17 shall be made available to the public, together with a con-  
18 cise statement of the basis of the determination.

19       (d) EXEMPTIONS FOR NATIONAL SECURITY AND DIS-  
20 ASTERS.—The provisions of this section shall not apply  
21 to any undertaking or class of undertakings—

22               (1) that is carried out by the Armed Forces of  
23       the United States (including the Coast Guard) or by  
24       the National Guard of any State which the Presi-

1       dent determines are necessary in time of war or na-  
2       tional emergency, or

3               (2) that takes place in an area the President  
4       has declared to be a major disaster area under the  
5       Disaster Relief and Emergency Assistance Act (42  
6       U.S.C. 5121 and following) where the head of the  
7       agency determines that the undertaking to be (A) a  
8       temporary measure involving an emergency situation  
9       and (B) necessary to prevent or reduce the potential  
10      loss of human life.

11      (e) FEDERAL ASSISTANCE.—Each Federal agency  
12      shall ensure that the agency will not grant a loan, loan  
13      guarantee, permit, license, or other assistance to an appli-  
14      cant who has intentionally significantly adversely affected  
15      a National Heritage Resource to which the grant would  
16      relate, or having legal power to prevent it, allowed such  
17      significant adverse effect to occur, unless the agency, after  
18      consultation with the Director (and the National Advisory  
19      Council on Historic Preservation in the case of a historic  
20      property), determines that circumstances justify granting  
21      such assistance despite the adverse effect created or per-  
22      mitted by the applicant.

23      **SEC. 402. TEMPORARY PROTECTION AUTHORITY.**

24      (a) DETERMINATION.—The Director shall determine  
25      whether an action (other than an action covered by section

1 401) will, or is likely to, cause harm or damage to, or  
2 destruction of, a National Heritage Resource.

3 (b) PROTECTION ACTION.—Where the Director de-  
4 termines that an action will, or is likely to, damage, harm,  
5 or destroy, a National Heritage Resource, the Director—

6 (1) shall use all available authorities to avoid or  
7 mitigate such effects;

8 (2) shall propose alternatives to avoid or miti-  
9 gate any such effects and may propose an agreement  
10 with any person to avoid or mitigate any such ef-  
11 fects; and

12 (3) may bring suit in the appropriate United  
13 States district court to enjoin such action.

14 In any such case the court may issue an order enjoining  
15 such action where the court finds that the action presents  
16 an imminent danger of such damage, harm, or destruc-  
17 tion. No order issued under this subsection shall remain  
18 in effect beyond 180 days following its initial effective  
19 date.

20 (c) ALTERNATIVES.—Whenever an agreement is pro-  
21 posed under subsection (b)(1), the Director shall review  
22 the agreement and approve it if the Director finds that  
23 the agreement will result in mitigating or avoiding the ef-  
24 fect described in subsection (a). After the Director has ap-  
25 proved such an agreement, the Director may request the

1 court to withdraw an order issued pursuant to subsection  
2 (b)(2).

3 (d) PETITION FOR DETERMINATION.—The Director  
4 shall make the determination described in subsection (a)  
5 upon the receipt of a petition submitted by any interested  
6 person under this subsection. The Director shall promul-  
7 gate regulations regarding the elements to be included in  
8 such petitions and binding timetables applicable to making  
9 decisions regarding such petitions.

## 10 **TITLE V—MISCELLANEOUS** 11 **PROVISIONS**

### 12 **SEC. 501. DEFINITIONS.**

13 As used in this title:

14 (1) The term “action” includes any failure or  
15 refusal to act.

16 (2) The term “agency” means (A) any Execu-  
17 tive agency, as defined in section 105 of title 5,  
18 United States Code, and any other agency, as de-  
19 fined in section 551 of title 5, United States Code,  
20 and (B) any department, agency, or instrumentality  
21 of a State or local government when such depart-  
22 ment, agency, or instrumentality is carrying out any  
23 Federal or federally-assisted undertaking.

24 (3) The term “Federal assistance” means any  
25 loan, loan guarantee, permit, license, exemption, or

1 other approval, sanction, assistance or support pro-  
2 vided or issued under the authority of Federal law.

3 (4) The term “Federal or federally-assisted un-  
4 dertaking” means a project, activity, or program  
5 funded in whole or in part under the direct or indi-  
6 rect jurisdiction of a Federal agency, including—

7 (A) those carried out by or on behalf of the  
8 agency;

9 (B) those carried out with Federal finan-  
10 cial assistance;

11 (C) those requiring a Federal permit li-  
12 cense, or approval; and

13 (D) those subject to State or local regula-  
14 tion administered pursuant to a delegation or  
15 approval by a Federal agency.

16 (5) The term “damage, harm, or destroy a Na-  
17 tional Heritage Resource” means to have any de-  
18 monstrable impact on the National Heritage Re-  
19 source or on its component resources, which impairs  
20 the natural, cultural, or esthetic values or signifi-  
21 cance of the National Heritage Resource or of its  
22 component resources or the visitor experience of  
23 such values or significance. The Director shall pro-  
24 mulgate generally applicable regulations under this  
25 paragraph.

1           (6) The term “Governor” means the chief execu-  
2           utive officer of a State.

3           (7) The terms “Indian tribe” and “tribe”  
4           means an Indian tribe, band, nation, or other orga-  
5           nized group or community, including a Native vil-  
6           lage, Regional Corporation or Village Corporation,  
7           as those terms are defined in section 3 of the Alaska  
8           Native Claims Settlement Act (43 U.S.C. 1602),  
9           which is recognized as eligible for the special pro-  
10          grams and services provided by the United States to  
11          Indians because of their status as Indians.

12          (8) The term “National Landmark Conserva-  
13          tion Agreement” means an agreement entered into  
14          under section 302.

15          (9) The term “legislative days” means calendar  
16          days of continuous session of Congress. For pur-  
17          poses of this paragraph—

18                 (A) continuity of session of Congress is  
19                 broken only by an adjournment sine die; and

20                 (B) the days on which either House is not  
21                 in session because of an adjournment of more  
22                 than 10 days to a day certain are excluded in  
23                 the computation of the period.

1           (10) The term “National Landmark” means  
2 any National Historic Landmark or a National Nat-  
3 ural Landmark.

4           (11) The term “National Historic Landmark”  
5 means a property so designated or determined eligi-  
6 ble for such designation pursuant to the authority of  
7 the Historic Sites Act of 1935 and as further au-  
8 thorized by this Act.

9           (12) The term “National Natural Landmark”  
10 means a property so designated pursuant to author-  
11 ity of the Historic Sites Act of 1935 and as further  
12 authorized by this Act.

13           (13) The term “National Park System” has the  
14 meaning provided by section 2 of the Act of August  
15 8, 1953 (16 U.S.C. 1b–1c).

16           (14) The term “National Register of Historic  
17 Places” means places so designated or determined  
18 eligible for designation pursuant to the National  
19 Historic Preservation Act.

20           (15) The terms “National Heritage Resource”  
21 and “NHR” mean any place meeting the definition  
22 of section 401(b) of this Act.

23           (16) The term “owner” means for the purposes  
24 of this Act, the single ownership entity or, in the  
25 case of multiple owners of a single property or the

1 owners of multiple properties, any one of such  
2 owners.

3 (17) The term “Director” means the Director  
4 of the National Park Service.

5 (18) The term “State” means each of the sev-  
6 eral States of the United States, the District of Co-  
7 lumbia, the Commonwealth of Puerto Rico, the Vir-  
8 gin Islands, Guam, American Samoa, the Republic  
9 of the Marshall Islands, the Federated States of Mi-  
10 cronesia, and the Republic of Palau, the Northern  
11 Mariana Islands, and any other territory or posses-  
12 sion of the United States.

13 **SEC. 502. PENALTIES AND ENFORCEMENT.**

14 (a) CIVIL ACTIONS.—The Director is authorized to  
15 commence a civil action for appropriate relief for any vio-  
16 lation of a court order issued pursuant to section 402 of  
17 this Act.

18 (b) CIVIL PENALTIES.—Any person who violates a  
19 court order issued pursuant to the provisions of section  
20 402 of this Act may be assessed a civil penalty equal to  
21 the cost of repairing any damage done to a National Her-  
22 itage Resource, plus an additional amount of \$2,500 for  
23 each day of violation. In lieu of assessing a civil penalty  
24 equal to the cost of repairing any damage, the court may  
25 require any person to undertake repairs pursuant to speci-

1 fications prepared by the National Park Service and under  
2 the supervision of the National Park Service.

3 **SEC. 503. RELATIONSHIP TO OTHER LAWS.**

4       The protection provided by this Act for National Her-  
5 itage Resources shall be in addition to any other protec-  
6 tion provided under any other authority of Federal or  
7 State law and nothing in this Act shall be construed to  
8 restrict any other authority of the Director under any  
9 Federal, State, or common law to regulate, protect, or pre-  
10 serve any National Heritage Resource. In order to provide  
11 for the highest degree of protection and preservation of  
12 the Nation's heritage of natural and cultural resources for  
13 the benefit of present and future generations, it is the in-  
14 tent of Congress that the Director shall utilize the most  
15 effective means available to the Director to protect and  
16 preserve National Heritage Resources. Nothing in this Act  
17 shall be construed to restrict any rights which any person  
18 (or class of persons) may have to seek enforcement of any  
19 standard or limitation or to seek any other relief under  
20 any other Federal, State, or common law in order to pro-  
21 tect or preserve any National Heritage Resource. Nothing  
22 in this Act shall restrict any relief available to the Direc-  
23 tor, or to any other person, including injunctive relief,  
24 under any other provision or rule of Federal, State, or

1 common law in any action or proceeding brought to pro-  
2 tect or preserve any National Heritage Resource.

3 **SEC. 504. AUTHORIZATION OF APPROPRIATIONS.**

4 There is authorized to be appropriated such sums as  
5 may be necessary for the purposes of this Act, except that  
6 not more than \$10,000,000 shall be available for purposes  
7 of section 302 of this Act (relating to National Landmark  
8 Conservation Agreements). Such sums shall remain avail-  
9 able until expended.

10 **SEC. 505. EXISTING UNDERTAKINGS.**

11 The provisions of section 401 and of the amendment  
12 made by section 404 shall not apply to any Federal or  
13 federally-assisted undertaking which commenced prior to  
14 the date of enactment of this Act or for which any Federal  
15 assistance, license, exemption approval has been granted  
16 prior to the date of enactment of this Act, except that  
17 any new or revised separate element of any such undertak-  
18 ing not commenced or not approved by such date shall  
19 be subject to such provisions. For purposes of this section,  
20 any part of an undertaking which is either physically sepa-  
21 rable or which has separately identifiable impacts shall be  
22 considered a separate element of the undertaking.

○

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