

English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.

Ordinance on the Protection of Nature and Cultural Heritage (NCHO)

of 16 January 1991 (Status as of 1 June 2017)

The Swiss Federal Council,

on the basis of Article 26 of the Federal Act of 1 July 1966¹ on the Protection of Nature and Cultural Heritage (NCHA),
Article 44 paragraph 1 of the Environmental Protection Act of 7 October 1983² (USG), and in implementation of the Convention 19 September 1979³ on the Conservation of European Wildlife and Natural Habitats,⁴

ordains:

Section 1 Nature Protection, Cultural Heritage Protection and Monument Preservation in the Fulfilment of Federal Tasks⁵

Art. 1⁶ Basic principle

In fulfilling federal tasks as specified in Article 2 of the NCHA, and in preparing and amending ordinances, concepts and sectoral plans (Art. 13 of the Federal Act of 22 June 1979⁷ on Spatial Planning) in relation to these tasks, the competent federal and cantonal authorities shall give due consideration to the requirements of nature protection, cultural heritage protection and monument preservation.

AS 1991 249

¹ SR 451

² SR 814.01

³ SR 0.455

⁴ Amended by No I of the O of 19 June 2000, in force since 1 Aug. 2000 (AS 2000 1869).

⁵ Amended by No I of the O of 18 Dec. 1995, in force since 1 Feb. 1996 (AS 1996 225).

⁶ Amended by No I of the O of 18 Dec. 1995, in force since 1 Feb. 1996 (AS 1996 225).

⁷ SR 700

Art. 2 Cooperation of specialist bodies responsible for nature protection, cultural heritage protection and monument preservation⁸

¹ The Federal Office for the Environment (FOEN)⁹, the Federal Office of Culture (the FOC) and das Federal Roads Office (FEDRO)¹⁰ shall be available to advise the authorities responsible for the fulfilment of federal tasks.

² When fulfilling a federal task in accordance with Article 2 NCHA, the competent federal authorities shall obtain an expert opinion from the cantons. In relation to the cooperation of the FOEN, the FOC and FEDRO, Article 3 paragraph 4 NCHA applies.¹¹

³ The cantons shall ensure that their specialist agencies responsible for nature protection, cultural heritage protection and monument preservation cooperate in fulfilling the tasks that fall to them in accordance with Article 1.¹²

⁴ As an element of their cooperation, the FOEN, the FOC and FEDRO (para. 2) and the cantonal specialist agencies for nature protection, cultural heritage protection and monument preservation (para. 3) whether in accordance with Article 7 NCHA a report from the competent federal expert commission (Art. 23 para. 2) is required.¹³

Art. 3¹⁴

Section 2
Federal support for Nature Protection, Cultural Heritage Protection and Monument Preservation¹⁵

Art. 4¹⁶ Global financial assistance

¹ Financial assistance for measures for the preservation of sites deserving protection in accordance with Article 13 NCHA shall normally be granted globally on the basis of a programme agreement.

⁸ Amended by No I of the O of 18 Dec. 1995, in force since 1 Feb. 1996 (AS **1996** 225).

⁹ The title of the administrative unit concerned has been modified in application of Art. 16 para. 3 of the Publications O of 17 Nov. 2004 (AS **2004** 4937). This modification has been made throughout the text.

¹⁰ The group of administrative units affected was in application of Art. 16 para. 3 of the Publications O of 17 Nov. 2004 (AS **2004** 4937). This modification has been made throughout the text.

¹¹ Amended by No I I 1 of the O of 2 Feb. 2000 to the Federal Act on the Coordination and Simplification of Decision-Making Procedures (AS **2000** 703).

¹² Amended by No I I 1 of the O of 2 Feb. 2000 to the Federal Act on the Coordination and Simplification of Decision-Making Procedures (AS **2000** 703).

¹³ Amended by No I I 1 of the O of 2 Feb. 2000 to the Federal Act on the Coordination and Simplification of Decision-Making Procedures (AS **2000** 703).

¹⁴ Repealed by No I of the O of 18 Dec. 1995, with effect from 1 Feb. 1996 (AS **1996** 225).

¹⁵ Amended by No I of the O of 18 Dec. 1995, in force since 1 Feb. 1996 (AS **1996** 225).

¹⁶ Amended by No I 4 of the O of 7 Nov. 2007 on the New System of Financial Equalisation and Division of Tasks between the Confederation and the Cantons, in force since 1 jan. 2008 (AS **2007** 5823).

- ² The subject matter of the programme agreement shall in particular be:
- a. the strategic programme objectives to be achieved jointly in the fields of nature protection, cultural heritage protection or monument preservation;
 - b. the duties of the canton;
 - c. the federal subsidy to be provided;
 - d. the financial control system.
- ³ The term of the programme agreement shall be no more than four years.
- ⁴ The FOEN, the FOC and FEDRO shall issue guidelines on the procedure for programme agreements and on the information and documentation on the subject matter of the programme agreement.

Art. 4a¹⁷ Financial assistance in specific cases

- ¹ By way of exception, financial assistance may be granted in a specific case if the measures:
- a. are urgently required;
 - b. to a substantial extent require a complex or specialist assessment; or
 - c. involve considerable expense.

² The FOEN, the FOC or FEDRO shall enter into a contract with the canton for this purpose or shall issue a ruling.

³ The FOEN, the FOC and FEDRO shall issue guidelines on the procedure for the granting of financial assistance in specific cases and on the information and documentation accompanying the application.

Art. 4b¹⁸ Application

¹ The canton shall submit the application for financial assistance to the FOEN, the FOC or FEDRO.

- ² The application for global financial assistance must contain details of:
- a. the programme objectives to be achieved;
 - b. the probable measures required to achieve the objectives and how they are to be implemented;
 - c. the effectiveness of the measures.

¹⁷ Inserted by No I 4 of the O of 7 Nov. 2007 on the New System of Financial Equalisation and Division of Tasks between the Confederation and the Cantons, in force since 1 jan. 2008 (AS 2007 5823).

¹⁸ Inserted by No I 4 of the O of 7 Nov. 2007 on the New System of Financial Equalisation and Division of Tasks between the Confederation and the Cantons, in force since 1 jan. 2008 (AS 2007 5823).

Art. 5¹⁹ Determination of the subsidy

¹ The amount of financial assistance is determined by:

- a. the national, regional or local importance of the sites to be protected;
- b. the extent, quality and complexity of the measures;
- c. the level of threat to the sites to be protected;
- d. the quality in which the services are to be provided.

² The amount of global financial assistance shall be negotiated between the FOEN, the FOC or FEDRO and the canton concerned.

³ In the fields of monument preservation, archaeology, protection of sites of local character and protection of historic traffic routes, the financial assistance may also be calculated on the basis of the following maximum subsidies in per cent of the expenditure eligible for subsidy:

- a. 25 per cent for sites of national importance;
- b. 20 per cent for sites of regional importance;
- c. 15 per cent for sites of local importance.

⁴ By way of exception, the percentage in paragraph 3 may be increased to a maximum of 45 per cent if it is proven that essential measures cannot be financed otherwise.

Art. 6²⁰ Expenditure eligible for subsidy

Expenditure is eligible for subsidy only if it has actually been incurred and is required for the proper fulfilment of the measures.

Art. 7 Supplementary provisions

¹ Requirements and conditions may be attached to the granting of financial assistance for a site, and in particular that:

- a. the site is placed under protection either permanently or for a specified period;
- b. the site is maintained in a condition appropriate to the purpose of the subsidy and that alterations to its condition require the approval of the FOEN, the FOC or FEDRO;
- c. the recipient of the subsidy reports periodically on its condition;
- d.²¹ a person appointed by the FOEN, the FOC or FEDRO is granted full inspection rights while work is being carried out on the site;

¹⁹ Amended by No 14 of the O of 7 Nov. 2007 on the New System of Financial Equalisation and Division of Tasks between the Confederation and the Cantons, in force since 1 jan. 2008 (AS 2007 5823).

²⁰ Amended by No 14 of the O of 7 Nov. 2007 on the New System of Financial Equalisation and Division of Tasks between the Confederation and the Cantons, in force since 1 jan. 2008 (AS 2007 5823).

- e. ...²²
- f.²³ any reports, drawings or photographic records requested by the FOEN, the FOC or FEDRO be provided free of charge;
- g.²⁴ the site is provided with a permanent inscription giving notice of the federal assistance and protection;
- h. any necessary upkeep work is carried out;
- i. any changes of ownership or other legal changes are reported immediately to the FOEN, the FOC or FEDRO;
- k. the condition of the site may be monitored;
- l. the site is made open to the public to the extent that this is compatible with its intended purpose.

² The FOEN, the FOC and FEDRO may waive the requirement that documentation be provided as specified in paragraph 1 letter f above if the canton guarantees that the material is properly archived and remains accessible.²⁵

Art. 8²⁶ Exemptions from mandatory record in land register

In granting financial assistance, the FOEN, the FOC or FEDRO shall exempt the landowner from the obligation to have restrictions on use recorded in the land register if the protection and upkeep measures are guaranteed equally effectively by other means. They shall take account of the importance of the site, potential risks and the existing cantonal options for legal protection.

Art. 9²⁷ Power to grant subsidies²⁸

¹ The FOEN, the FOC or FEDRO are responsible for granting financial assistance.²⁹

² This provision also applies to Articles 14, 14a and, unless in connection with the initiation of a compulsory purchase proceedings, 15 NCHA.

²¹ Amended by No I of the O of 18 Dec. 1995, in force since 1 Feb. 1996 (AS **1996** 225).
²² Repealed by No I of the O of 18 Dec. 1995, with effect from 1 Feb. 1996 (AS **1996** 225).
²³ Amended by No I of the O of 18 Dec. 1995, in force since 1 Feb. 1996 (AS **1996** 225).
²⁴ Amended by No I of the O of 18 Dec. 1995, in force since 1 Feb. 1996 (AS **1996** 225).
²⁵ Inserted by No I of the O of 18 Dec. 1995, in force since 1 Feb. 1996 (AS **1996** 225).
²⁶ Amended by No I of the O of 18 Dec. 1995, in force since 1 Feb. 1996 (AS **1996** 225).
²⁷ Amended by No I of the O of 18 Dec. 1995, in force since 1 Feb. 1996 (AS **1996** 225).
²⁸ Amended by No I 4 of the O of 7 Nov. 2007 on the New System of Financial Equalisation and Division of Tasks between the Confederation and the Cantons, in force since 1 jan. 2008 (AS **2007** 5823).
²⁹ Amended by No I 4 of the O of 7 Nov. 2007 on the New System of Financial Equalisation and Division of Tasks between the Confederation and the Cantons, in force since 1 jan. 2008 (AS **2007** 5823).