

108TH CONGRESS  
1ST SESSION

# H. R. 2416

To provide for the protection of paleontological resources on Federal lands,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2003

Mr. MCGOVERN (for himself, Mr. MCINNIS, Mr. GILCHREST, Mr. GEORGE MILLER of California, Ms. LEE, Mr. BEREUTER, Ms. MCCOLLUM, Mr. MORAN of Virginia, Mr. ENGLISH, Mr. REHBERG, and Mr. UDALL of Colorado) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for the protection of paleontological resources  
on Federal lands, 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.**

4 This Act may be cited as the “Paleontological Re-  
5 sources Preservation Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1           (1) Paleontological resources are nonrenewable.  
2           Such resources on Federal lands are an accessible  
3           and irreplaceable part of the heritage of the United  
4           States and offer significant educational opportunities  
5           to all citizens.

6           (2) Existing Federal laws, statutes, and other  
7           provisions that manage paleontological resources are  
8           not articulated in a unified national policy for Fed-  
9           eral land management agencies and the public. Such  
10          a policy is needed to improve scientific under-  
11          standing, to promote responsible stewardship, and to  
12          facilitate the enhancement of responsible paleon-  
13          tological collecting activities on Federal lands.

14          (3) Consistent with the statutory provisions ap-  
15          plicable to each Federal land management system,  
16          reasonable access to paleontological resources on  
17          Federal lands should be provided for scientific, edu-  
18          cational, and recreational purposes.

19 **SEC. 3. PURPOSE.**

20          The purpose of this Act is to establish a comprehen-  
21          sive national policy for preserving and managing paleon-  
22          tological resources on Federal lands.

23 **SEC. 4. DEFINITIONS.**

24          As used in this Act:

1           (1) CASUAL COLLECTING.—The term “casual  
2 collecting” means the collecting of a reasonable  
3 amount of common invertebrate and plant paleon-  
4 tological resources for personal, scientific, edu-  
5 cational or recreational use, either by surface collec-  
6 tion or using non-powered hand tools resulting in  
7 only negligible disturbance to the Earth’s surface  
8 and other resources.

9           (2) SECRETARY.—The term “Secretary” means  
10 the Secretary of the Interior with respect to lands  
11 administered by the Secretary of the Interior or the  
12 Secretary of Agriculture with respect to National  
13 Forest System Lands administered by the Secretary  
14 of Agriculture.

15           (3) FEDERAL LANDS.—The term “Federal  
16 lands” means lands administered by the Secretary of  
17 the Interior, except Indian lands, or National Forest  
18 System Lands administered by the Secretary of Ag-  
19 riculture.

20           (4) INDIAN LANDS.—The term “Indian Lands”  
21 means lands of Indian tribes, or Indian individuals,  
22 which are either held in trust by the United States  
23 or subject to a restriction against alienation imposed  
24 by the United States.

1           (5) STATE.—The term “State” means the fifty  
2 States, the District of Columbia, the Commonwealth  
3 of Puerto Rico, and any other territory or possession  
4 of the United States.

5           (6) PALEONTOLOGICAL RESOURCE.—The term  
6 “paleontological resource” means any fossilized re-  
7 mains, traces, or imprints of organisms, preserved in  
8 or on the earth’s crust, that are of paleontological  
9 interest and that provide information about the his-  
10 tory of life on earth, except that the term does not  
11 include—

12                 (A) any materials associated with an ar-  
13 chaeological resource (as defined in section 3(1)  
14 of the Archaeological Resources Protection Act  
15 of 1979 (16 U.S.C. 470bb(1))); or

16                 (B) any cultural item (as defined in section  
17 2 of the Native American Graves Protection  
18 and Repatriation Act (25 U.S.C. 3001)).

19           (7) COMMON INVERTEBRATE AND PLANT PALE-  
20 ONTOLOGICAL RESOURCES.—The term “common in-  
21 vertebrate and plant paleontological resources”  
22 means fossils that are not significant.

23           (8) SIGNIFICANT.—The term “significant” is a  
24 fossil that meets scientific significance criteria as de-

1       terminated by the Secretary in the promulgation of  
2       uniform rules and regulations under this Act.

3               (9) QUALIFIED APPLICANT.—The term “quali-  
4       fied applicant” is someone who possesses a graduate  
5       degree in paleontology or related topics; or the  
6       equivalent experience with one who meets that  
7       standard.

8       **SEC. 5. MANAGEMENT.**

9               (a) IN GENERAL.—The Secretary shall manage and  
10       protect paleontological resources on Federal lands using  
11       scientific principles and expertise. The Secretary shall de-  
12       velop appropriate plans for inventory, monitoring, and the  
13       scientific and educational use of paleontological resources,  
14       in accordance with applicable agency laws, regulations,  
15       and policies. These plans shall emphasize interagency co-  
16       ordination and collaborative efforts where possible with  
17       non-Federal partners, the scientific community, and the  
18       general public.

19              (b) COORDINATION OF IMPLEMENTATION.—To the  
20       extent possible, the Secretary of the Interior and the Sec-  
21       retary of Agriculture shall coordinate in the implementa-  
22       tion of this Act.

1 **SEC. 6. PUBLIC AWARENESS AND EDUCATION PROGRAM.**

2       The Secretary shall establish a program to increase  
3 public awareness about the significance of paleontological  
4 resources.

5 **SEC. 7. COLLECTION OF PALEONTOLOGICAL RESOURCES.**

6       (a) PERMIT REQUIREMENT.—

7           (1) IN GENERAL.—Except as provided in this  
8 Act, a paleontological resource may not be collected  
9 from Federal lands without a permit issued under  
10 this Act by the Secretary.

11           (2) CASUAL COLLECTING EXCEPTION.—The  
12 Secretary may allow casual collecting without a per-  
13 mit on Federal lands administered by the Bureau of  
14 Land Management, the Bureau of Reclamation, and  
15 the U.S. Forest Service, where such collection is not  
16 inconsistent with the laws governing the manage-  
17 ment of those Federal lands and this Act.

18           (3) PREVIOUS PERMIT EXCEPTION.—Nothing in  
19 this section shall affect a valid permit issued prior  
20 to the date of enactment of this Act.

21       (b) CRITERIA FOR ISSUANCE OF A PERMIT.—The  
22 Secretary may issue a permit for the collection of a paleon-  
23 tological resource pursuant to an application if the Sec-  
24 retary determines that—

25           (1) the permitted activity shall be carried out  
26       by a qualified applicant;

1           (2) the permitted activity is undertaken for the  
2           purpose of furthering paleontological knowledge or  
3           for public education;

4           (3) the permitted activity is consistent with any  
5           management plan applicable to the Federal lands  
6           concerned; and

7           (4) the proposed methods of collecting will not  
8           threaten significant natural or cultural resources.

9           (c) PERMIT SPECIFICATIONS.—A permit for the col-  
10          lection of a paleontological resource issued under this sec-  
11          tion shall contain such terms and conditions as the Sec-  
12          retary deems necessary to carry out the purposes of this  
13          Act. Every permit shall include requirements that—

14           (1) the paleontological resource that is collected  
15           from Federal lands under the permit will remain the  
16           property of the United States;

17           (2) the paleontological resource and copies of  
18           associated records will be preserved for the public in  
19           an approved repository, to be made available for sci-  
20           entific research and public education; and

21           (3) specific locality data will not be released by  
22           the permittee or repository without the written per-  
23           mission of the Secretary.

24          (d) MODIFICATION, SUSPENSION, AND REVOCATION  
25          OF PERMITS.—

1           (1) The Secretary may modify, suspend, or re-  
2       voke a permit issued under this section—

3                   (A) for resource, safety, or other manage-  
4       ment considerations; or

5                   (B) when there is a violation of term or  
6       condition of a permit issued pursuant to this  
7       section.

8           (2) The permit shall be revoked if any person  
9       working under the authority of the permit is con-  
10      victed under section 9 or is assessed a civil penalty  
11      under section 10.

12 **SEC. 8. CURATION OF RESOURCES.**

13       Any paleontological resource, and any data and  
14      records associated with the resource, collected under a per-  
15      mit, shall be deposited in an approved repository. The Sec-  
16      retary may enter into agreements with non-Federal reposi-  
17      tories regarding the curation of these resources, data, and  
18      records.

19 **SEC. 9. PROHIBITED ACTS; PENALTIES.**

20       (a) IN GENERAL.—A person may not—

21                   (1) excavate, remove, damage, or otherwise  
22      alter or deface or attempt to excavate, remove, dam-  
23      age, or otherwise alter or deface any paleontological  
24      resources located on Federal lands unless such activ-  
25      ity is conducted in accordance with this Act;

1           (2) exchange, transport, export, receive, or offer  
2           to exchange, transport, export, or receive any pale-  
3           ontological resource if, in the exercise of due care,  
4           the person knew or should have known such resource  
5           to have been excavated, removed, exchanged, trans-  
6           ported, or received from Federal lands in violation of  
7           any provisions, rule, regulation, law, ordinance, or  
8           permit in effect under Federal law, including this  
9           Act; or

10           (3) sell or purchase or offer to sell or purchase  
11           any paleontological resource if, in the exercise of due  
12           care, the person knew or should have known such re-  
13           source to have been excavated, removed, sold, pur-  
14           chased, exchanged, transported, or received from  
15           Federal lands.

16           (b) FALSE LABELING OFFENSES.—A person may not  
17           make or submit any false record, account, or label for,  
18           or any false identification of, any paleontological resource  
19           excavated or removed from Federal lands.

20           (c) PENALTIES.—

21           (1) IN GENERAL.—Except as provided in para-  
22           graphs (2) and (3), a person who knowingly violates  
23           or counsels, procures, solicits, or employs another  
24           person to violate subsection (a) or (b) shall, upon  
25           conviction, be guilty of a class A misdemeanor.

1           (2) DAMAGE OVER \$1,000.—If the sum of the  
2           scientific or fair market value of the paleontological  
3           resources involved and the cost of restoration and  
4           repair of such resources exceeds the sum of \$1,000,  
5           such person shall, upon conviction, be guilty of a  
6           class E felony.

7           (3) MULTIPLE OFFENSES.—In the case of a  
8           second or subsequent such violation, such person  
9           shall, upon conviction, be guilty of a class D felony.

10          (d) GENERAL EXCEPTION.—Nothing in subsection  
11         (a) shall apply to any person with respect to any paleon-  
12         tological resource which was in the lawful possession of  
13         such person prior to the date of the enactment of this Act.

14         **SEC. 10. CIVIL PENALTIES FOR VIOLATIONS OF REGULA-**  
15                                 **TIONS OR PERMIT CONDITIONS.**

16         (a) IN GENERAL.—

17           (1) HEARING.—A person who violates any pro-  
18           hibition contained in an applicable regulation or per-  
19           mit issued under this Act may be assessed a penalty  
20           by the Secretary after the person is given notice and  
21           opportunity for a hearing with respect to the viola-  
22           tion. Each violation shall be considered a separate  
23           offense for purposes of this section.

24           (2) AMOUNT OF PENALTY.—The amount of  
25           such penalty assessed under paragraph (1) shall be

1 determined under regulations promulgated pursuant  
2 to this Act, taking into account the following factors:

3 (A) The scientific or fair market value,  
4 whichever is greater, of the paleontological re-  
5 source involved.

6 (B) The cost of response, restoration, and  
7 repair of the resource and the paleontological  
8 site involved.

9 (C) Any other factors considered relevant  
10 by the Secretary assessing the penalty.

11 (3) MULTIPLE OFFENSES.—In the case of a  
12 second or subsequent violation by the same person,  
13 the amount of a penalty assessed under paragraph  
14 (2) may be doubled.

15 (4) LIMITATION.—The amount of any penalty  
16 assessed under this subsection for any one violation  
17 shall not exceed an amount equal to double the cost  
18 of response, restoration, and repair of resources and  
19 paleontological site damage plus double the scientific  
20 or fair market value of resources destroyed or not  
21 recovered.

22 (b) PETITION FOR JUDICIAL REVIEW; COLLECTION  
23 OF UNPAID ASSESSMENTS.—Any person against whom an  
24 order is issued assessing a penalty under subsection (a)  
25 may file a petition for judicial review of the order with

1 an appropriate Federal district court within the 30-day  
2 period beginning on the date the order making the assess-  
3 ment was issued. The court shall hear the action on the  
4 record made before the Secretary and shall sustain his ac-  
5 tion if it is supported by substantial evidence on the record  
6 considered as a whole.

7 (c) HEARINGS.—Hearings held during proceedings  
8 instituted under subsection (a) shall be conducted in ac-  
9 cordance with section 554 of title 5, United States Code.

10 (d) USE OF RECOVERED AMOUNTS.—Any penalties  
11 collected under this section shall be available to the Sec-  
12 retary and without further appropriation may be used only  
13 as follows:

14 (1) To protect, restore, or repair the paleon-  
15 tological resources and sites which were the subject  
16 of the action, or to acquire sites with equivalent re-  
17 sources, and to protect, monitor, and study the re-  
18 sources and sites. Any acquisition shall be subject to  
19 any limitations contained in the organic legislation  
20 for such Federal lands.

21 (2) To provide educational materials to the  
22 public about paleontological resources and sites.

23 (3) To provide for the payment of Rewards as  
24 provided in section 11.

1 **SEC. 11. REWARDS FORFEITURE.**

2 (a) REWARDS.—The Secretary may pay from pen-  
3 alties collected under section 9 or 10 an amount equal to  
4 the lesser of one-half of the penalty or \$500, to any person  
5 who furnishes information which leads to the finding of  
6 a civil violation, or the conviction of criminal violation,  
7 with respect to which the penalty was paid. If several per-  
8 sons provided the information, the amount shall be divided  
9 among the persons. No officer or employee of the United  
10 States or of any State or local government who furnishes  
11 information or renders service in the performance of his  
12 official duties shall be eligible for payment under this sub-  
13 section.

14 (b) FORFEITURE.—All paleontological resources with  
15 respect to which a violation under section 9 or 10 occurred  
16 and which are in the possession of any person, and all  
17 vehicles and equipment of any person that were used in  
18 connection with the violation, may be subject to forfeiture  
19 to the United States upon—

20 (1) the person's conviction of the violation  
21 under section 9;

22 (2) assessment of a civil penalty against any  
23 person under section 10 with respect to the viola-  
24 tion; or

1           (3) a determination by any court that the pale-  
2           ontological resources, vehicles, or equipment were in-  
3           volved in the violation.

4 **SEC. 12. CONFIDENTIALITY.**

5           Information concerning the nature and specific loca-  
6           tion of a paleontological resource the collection of which  
7           requires a permit under this Act or under any other provi-  
8           sion of Federal law shall be withheld from the public under  
9           subchapter II of chapter 5 of title 5, United States Code,  
10          or under any other provision of law unless the responsible  
11          Secretary determines that disclosure would—

12                 (1) further the purposes of this Act;

13                 (2) not create risk of harm to or theft or de-  
14                 struction of the resource or the site containing the  
15                 resource; and

16                 (3) be in accordance with other applicable laws.

17 **SEC. 13. REGULATIONS.**

18          As soon as practical after the date of the enactment  
19          of this Act, the Secretary shall issue uniform regulations  
20          as are appropriate to carry out this Act, providing oppor-  
21          tunities for public notice and comment.

22 **SEC. 14. ROCK COLLECTING ON NATIONAL FOREST SYSTEM**  
23 **LANDS.**

24          Casual collecting of rocks and minerals for personal  
25          use is a valid use of National Forest System lands and

1 requires no permit except as provided by other statutes  
2 and agency regulations.

3 **SEC. 15. SAVINGS PROVISIONS.**

4 Nothing in this Act shall be construed to—

5 (1) invalidate, modify, or impose any additional  
6 restrictions or permitting requirements on any ac-  
7 tivities permitted at any time under the general min-  
8 ing laws, the mineral or geothermal leasing laws,  
9 laws providing for minerals materials disposal, or  
10 laws providing for the management or regulation of  
11 the activities authorized by the aforementioned laws  
12 including but not limited to the Federal Land Policy  
13 Management Act (43 U.S.C. 1701–1784), the Min-  
14 ing in the Parks Act, the Surface Mining Control  
15 and Reclamation Act of 1977 (30 U.S.C. 1201–  
16 1358), and the Organic Administration Act (16  
17 U.S.C. 478, 482, 551);

18 (2) invalidate, modify, or impose any additional  
19 restrictions or permitting requirements on any ac-  
20 tivities permitted at any time existing laws and au-  
21 thorities relating to reclamation and multiple uses of  
22 the public lands;

23 (3) apply to, or require a permit for, amateur  
24 collecting of a rock, mineral, or invertebrate or plant  
25 fossil that is not protected under this Act;

1           (4) affect any lands other than Federal lands or  
2 affect the lawful recovery, collection, or sale of pale-  
3 ontological resources from lands other than Federal  
4 lands;

5           (5) alter or diminish the authority of a Federal  
6 agency under any other law to provide protection for  
7 paleontological resources on Federal lands in addi-  
8 tion to the protection provided under this Act; or

9           (6) create any right, privilege, benefit, or enti-  
10 tlement for any person who is not an officer or em-  
11 ployee of the United States acting in that capacity.

12 No person who is not an officer or employee of the  
13 United States acting in that capacity shall have  
14 standing to file any civil action in a court of the  
15 United States to enforce any provision or amend-  
16 ment made by this Act.

17 **SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

18           There is authorized to be appropriated such sums as  
19 may be necessary to carry out this Act.

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