107TH CONGRESS
1ST SESSION

H. R. 2974

To provide for the protection of paleontological resources on Federal lands, to promote the systematic compilation of baseline paleontological resource data, science-based decisionmaking, and accurate public education, to provide for a unified management policy regarding paleontological resources on Federal lands, to promote legitimate public access to fossil resources on Federal lands, to encourage informed stewardship of the resources through educational, recreational, and scientific use of the paleontological resources on Federal lands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2001

Mr. MCGOVERN (for himself, Mr. SOUDER, Mr. TIAHRT, Mr. COYNE, Mrs. TAUSCHER, and Mr. GEORGE MILLER of California) introduced the following bill; which was referred to the Committee on Resources

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A BILL

To provide for the protection of paleontological resources on Federal lands, to promote the systematic compilation of baseline paleontological resource data, science-based decisionmaking, and accurate public education, to provide for a unified management policy regarding paleontological resources on Federal lands, to promote legitimate public access to fossil resources on Federal lands, to encourage informed stewardship of the resources through educational, recreational, and scientific use of the paleontological resources on Federal lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Paleontological Resources Preservation Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Federal lands are a valuable resource of the people of the United States.

(2) Each individual who uses Federal lands—

(A) is exercising both a right and a privilege; and

(B) must accept the responsibility of careful stewardship of the land and its resources so that the privilege can be exercised by future generations.

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

(4) Current Federal laws, statutes, and other provisions that regulate access to paleontological resources are not articulated in a single omnibus pol-

icy for Federal land management agencies and the public.

(5) A unified national policy is needed to improve scientific understanding and Federal management of ancient ecosystems, to promote responsible stewardship, and to facilitate the enhancement of responsible paleontological collecting activities on Federal lands.

(6) A mechanism to encourage cooperation and to exchange information among Federal agencies, paleontologists, and the public should be adopted.

(7) Increased awareness and enjoyment of paleontological resources by children and young adults should be fostered.

(8) Consistent with the statutory provisions applicable to each Federal land management system, reasonable access to paleontological resources on Federal lands should be provided for scientific, educational, and recreational purposes.

(9) Fossil collecting activities by the public, including amateur paleontologists and volunteers, have contributed a wealth of information to the science of paleontology. Such collecting should be encouraged and facilitated, where appropriate.

(10) Some paleontological resources, including all vertebrate fossils, are rare and should only be collected under a permit.

(11) Those paleontological resources collected under permit should remain the property of the United States and should be placed in approved repositories, including museums, universities, colleges, and other educational institutions, for scientific research and public education.

(12) Release of information on the location of fossils collected under permit can result in irreparable harm to the resource and therefore should be limited to purposes that ensure resource protection.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To establish, to the extent practicable, a unified policy for Federal land management agencies for preserving and managing paleontological resources—

(A) consistent with the protection of scientifically and educationally significant or rare paleontological resources;

(B) consistent with the specific mandate of each Federal agency; and

(C) without diminishing the rights of those who develop minerals under the general mining laws, or mineral leasing, geothermal leasing, and mineral materials disposal laws.

(2) To encourage stewardship through scientific, educational, and recreational uses, as appropriate, of the paleontological resources on Federal lands.

(3) To maximize the conservation and preservation of paleontological resources on Federal lands.

(4) To ensure that the scientific and educationally significant or rare paleontological resources found on Federal lands will remain the property of the United States.

(5) Consistent with the statutory provisions applicable to each Federal land management system, appropriately provide and maximize opportunities and access for the scientific community and the public, including children and young adults, to collect paleontological resources on Federal lands.

(6) To foster partnerships through increased cooperation and exchange of information among Federal and State agencies, the scientific community, and the general public.

(7) To provide for the dissemination of knowledge to the general public about the scientific and educational value of paleontological resources.

(8) To ensure that amateur collecting of rocks, minerals, and invertebrate and plant fossils on Federal lands is not affected by this Act.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term ''casual collecting'' means the collecting of a reasonable amount of paleontological resources for noncommercial use with the use of nonpowered hand tools resulting in negligible disturbance to the Earth's surface.

(2) FEDERAL LAND MANAGER.—The term ''Federal land manager'' means the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over Federal lands.

(3) FEDERAL LANDS.—The term ''Federal lands'' means lands owned, administered, or controlled by the Federal Government, except Indian lands.

(4) INDIAN LANDS.—The term ''Indian lands'' means lands of Indian tribes, or Indian individuals,

which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(5) PERSON.—The term ''person'' includes an individual, corporation, partnership, trust, institution, association, any other private entity, an officer, employee, agent, department, or instrumentality of the United States, an Indian tribe, and a State or political subdivision of a State.

(6) STATE.—The term ''State'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(7) PALEONTOLOGICAL RESOURCE.—(A) The term ''paleontological resource'' means any remains, traces, or imprints of organisms, preserved in or on the Earth's crust, which are of paleontological interest.

(B) The term ''paleontological resource'' does not include any materials associated with an archeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)).

SEC. 5. MANAGEMENT.

Federal land managers shall manage and protect paleontological resources on Federal land using scientific principles and expertise, develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with agency missions. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

SEC. 6. PUBLIC AWARENESS AND EDUCATION PROGRAM.

Each Federal land manager responsible for paleontological resources shall establish a program to increase public awareness about the significance of paleontological resources and the need to preserve and provide access to those resources.

SEC. 7. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this subsection, a person may not collect a paleontological resource from Federal land without a permit issued under this Act by the responsible Federal land manager.

(2) CASUAL COLLECTING EXCEPTION.—The Secretary, the Director, or any other Federal land manager, with the exception of a Federal land man-

ager of land under the jurisdiction of the National Park Service, may allow casual collecting of abundant invertebrate and plant paleontological resources, for scientific, educational, and recreational uses, without a permit, where such collection is not inconsistent with the laws governing the management of those Federal lands and this Act. A determination by the Secretary, the Director, or a Federal land manager regarding whether an action constitutes casual collecting shall be final.

(3) PREVIOUS PERMIT EXCEPTION.—Any permit authorizing the collection of a paleontological resource in a specific area issued under any Act prior to the date of the enactment of this Act shall remain in effect according to the terms and conditions of that permit, without the permittee being required to obtain a permit for such resource under this Act.

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—A permit for the collection of a paleontological resource may be issued pursuant to an application if the Federal land manager determines that—

(1) the applicant is qualified to carry out the permitted activity;

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

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

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

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions, pursuant to regulations promulgated under this Act, as the Federal land manager deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

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

(2) the resource and copies of associated paleontological records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Federal land manager.

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

(1) IN GENERAL.—The Federal land manager may modify, suspend, or revoke a permit—

(A) for resource, safety, or other management considerations; or

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

(2) MANDATORY REVOCATION.—The permit shall be revoked if any person working under the authority of the permit is convicted under section 9 or is assessed a civil penalty under section 10.

(e) AREA CLOSURES.—In order to protect paleontological resources or other resources and to provide for public safety, Federal land managers may restrict access to or close areas under their jurisdiction to the collection of paleontological resources.

SEC. 8. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. Federal land managers may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 9. PROHIBITED ACTS; PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in compliance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if such resource was excavated, removed, exchanged, transported, or received from Federal lands in violation of any provision, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if such resource was excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

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

(c) PENALTIES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a person who intentionally violates or counsels, procures, solicits, or employs an-

other person to violate subsection (a) or (b) shall, upon conviction, be guilty of a class A misdemeanor.

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

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

(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

SEC. 10. CIVIL PENALTIES FOR VIOLATIONS OF REGULATIONS OR PERMIT CONDITIONS.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Federal land manager concerned after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be

considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved.

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

(C) Any other factors considered relevant by the Federal land manager assessing the penalty.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation, the amount of a penalty assessed under paragraph (2) may be double the amount assessed for a violation were the first violation by the person.

(4) LIMITATION.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific

or fair market value of resources destroyed or not recovered.

(5) PERMIT EXCEPTION.—No penalty shall be assessed under this section for the removal of a paleontological resource permitted in accordance with this Act.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—

(1) IN GENERAL.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order with an appropriate Federal district court within the 30-day period beginning on the date the order making the assessment was issued. The court shall hear the action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) CIVIL ACTION MAY BE FILED FOR FAILURE TO PAY PENALTY.—If any person fails to pay a penalty assessed under this section—

(A) after the order making the assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought under paragraph (1) has entered a final judgment upholding the assessment of the penalty, then the appropriate Federal land manager may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person is found, resides, or transacts business, to collect the penalty. The district court shall have jurisdiction to hear and decide any such action. In such action, the validity and amount of such penalty shall not be subject to review.

(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code. The appropriate Federal land manager may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents; and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In the case of contumacy or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have

jurisdiction to issue an order requiring the person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey the order of the court may be punished by the court as contempt thereof.

(d) USE OF RECOVERED AMOUNTS.—Any penalties collected under this section shall be available to the Federal land manager and without further congressional action may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

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

(3) As a reward in accordance with section 11 of this Act.

SEC. 11. REWARDS; FORFEITURE.

(a) REWARDS.—Upon certification of the Federal land manager, the Secretary of the Treasury shall pay from penalties collected under section 9 or 10 of this Act

an amount equal to the lesser of one-half of the penalty or $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

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

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

(2) assessment of a civil penalty against any person under section 10 with respect to the violation; or

(3) a determination by any court that the paleontological resources, vehicles, or equipment were involved in the violation.

(c) TRANSFER OF SEIZED RESOURCES.—The Federal land manager is authorized to transfer ownership or administration of seized paleontological resources to Federal or non-Federal institutions to be used for educational purposes.

SEC. 12. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be withheld from the public under subchapter II of chapter 5 of title 5, United States Code, or under any other provision of law unless the responsible Federal land manager determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 13. REGULATIONS.

(a) ISSUANCE.—Not later than 2 years after the date of the enactment of this Act, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, and the Chairman of the Board of the Tennessee Valley Authority, after consultation with other Federal land managers and representatives of concerned State agencies, and

after public notice and hearing, shall issue such regulations as are appropriate to carry out this Act.

(b) EFFECTIVE DATE.—A regulation issued pursuant to subsection (a) shall not take effect until 90 days after the date of issuance of the regulation.

SEC. 14. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose additional restrictions on any activities permitted under the general mining laws, or the mineral leasing, geothermal leasing, and mineral materials disposal laws;

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

(3) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

(4) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act; or

(5) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity.

1 No person who is not an officer or employee of the United
2 States acting in that capacity shall have standing to file
3 any civil action in a court of the United States to enforce
4 any provision or amendment made by this Act.

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