

Concern:

Passage of the PRPA as included in S. 22 will harm amateur paleontologists and rock collectors.

Fact:

This is not true. Any collecting that amateur paleontologists and rock collectors can legally do today will still be permitted under the PRPA. For example, an amateur collector can legally collect common plants and invertebrates on BLM and FS land without a permit. This would still be allowed under the casual collecting provision. Collection of vertebrate fossils requires a permit under existing rules and regulations. Collecting on NPS lands is by permit only. In sum, nothing changes.

One thing that should be of interest is that although the Forest Service has been allowing rock collecting in National Forests, they really have no legal authority for doing so as current agency "organic acts," do not specifically address this recreational use of public lands. Without specific authority this practice may be in jeopardy and future administrations could take away this privilege. The problems inherent in not having this authorization spelled out clearly were seen in the issuance of the Forest Service's 1994 proposed rules which would have prohibited amateur rock, mineral and fossil collecting on all National Forest system lands. It is estimated that 30,000 to 70,000 comments were received from amateurs opposed to eliminating amateur collecting. The PRPA gives the needed Congressional authorization for amateur collecting on public lands. The following quotation comes from Ms. Elizabeth Estill, Deputy Chief, Programs and Legislation for the Forest Service. S. Hrg. 107-794. (S. 2727 was the Senate version of the bill from the 107<sup>th</sup> Congress, and is virtually identical to the PRPA provisions of Title VI Subtitle D of S. 22):

"The Forest Service currently does allow casual collecting by amateurs without permit, but there is not anything that really formally recognizes this activity. We see S. 2727 formally allowing it, and we see that as a good thing for the casual collector."

Concern:

Title VI Subtitle of S. 22 will interfere with rock and fossil collecting on private land.

Fact:

This is not true. Section 6311 of S. 22 states that "Nothing in this subtitle shall be construed to (4) affect any land other than Federal land or affect the lawful recovery, collection, or sale of paleontological resources from land other than Federal land;"

Concern:

The PRPA is overly harsh and will harm rock collectors

Fact:

Nothing in this bill affects rock collecting. Section 6311.(3) specifically states that "Nothing in this subtitle shall be construed to ..... apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this subtitle;"

Concern:

The PRPA gives federal agencies too much authority in granting permits and will restrict access to anyone not holding a Ph.D.

Fact:

There is no change in this bill. The agencies already are using this discretion; e.g.the Forest Service and BLM already have the discretion to issue permits, and by policy, only issue permits for scientific and educational purposes. No permits are issued now by the commercial collecting of paleontological resources. No permits are required now for amateur collecting. Passage of this legislation would ensure as these agencies do so they are following the wishes of the American people as expressed through their elected representatives.

Concern:

The forfeiture provisions of the PRPA are too harsh and should not be applied to rock collectors.

Fact:

The criminal and civil penalties in the PRPA would apply only to paleontological resources, not rock collecting. Any forfeiture could only occur after conviction.. Congressional passage of P.L. 106-185, the Civil Asset Forfeiture Act of 2000 requires that in all suits or actions brought for civil forfeiture of any property, that the burden of proof is on the United States to establish by preponderance of evidence that the property is subject to forfeiture. Therefore, under the current theft of property statutes at Title 18, P.L. 106-185 would offer the defendant additional protection.

Concern:

Offering rewards to informants can create a tense law enforcement environment.

Fact:

A great deal of consultation (not formal) was done with all the land

management agencies when this legislation was being drafted. The rewards provision was added based on input from the agencies that is was a very necessary tool for law enforcement and DOJ 's analysis of the PRPA concurred with this.

Concern:

The false labeling provision of the PRPA could result in people being prosecuted for honest misidentifications of fossils.

Fact:

The false labeling offense applies when any false statement is made in association with a criminal offense under that section of the PRPA. This is not new authority as the agencies have the authority now to make a charge of "false labeling," and if applicable, would be made in association with a charge under theft of federal property at 18 USC 641. The basis for this section of the bill is Title 18 USC 1001.

Concern:

The PRPA gives undue discretion to the agencies in permitting and enforcement.

Fact:

Currently, the National Park Service, FS and BLM have the discretion to issue permits for paleontological collection under each agency's respective Organic Acts. Law Enforcement has all the discretion allowed under Title 18 USC 641, 1001, 1361 and any other applicable charges. Passage of this legislation would ensure that as they do so they are following the wishes of the American people as expressed through their elected representatives.

Concern:

The PRPA would harm rock conventions, would require a paper trail for collections made from federal lands, and could penalize those guilty of only inadvertent violations.

Fact:

There is no requirement in the PRPA for certification or proof of ownership or rocks, minerals or fossils, nor in any current authority. Currently, under the Mineral Materials Act of 1947, in order to be able to collect, then sell rocks and minerals from public lands, an amateur must have a mineral materials permit from the appropriate agency, and pay royalties to the government.

Concern:

The PRPA would interfere with mining on federal land.

Fact:

Section 6311 of S. 22 ensures this will not happen It states that

"Nothing in this subtitle shall be construed to —(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701-1784), Public Law 94-429 (commonly known as the `Mining in the Parks Act') (16 U.S.C. 1901 et seq.), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201-1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);"