

January 16, 2017

ATTN: Scott Foss  
BLM Senior Paleontologist  
20 M St. SE, Suite 2134  
Washington, DC, 20003

ATTN: Julia Brunner  
Geologic Resources Division  
National Park Service  
P. O. Box 25287  
Denver, CO 80225-0287

ATTN: Vincent Santucci  
NPS Senior Paleontologist & GRD Liaison  
1201 Eye Street NW, Room 1146  
Washington, D.C. 20005

**Re: Docket No. NPS-2016-0003. RIN 1093-AA-16.** Comment on proposed Rule on Paleontological Resources Preservation Act of 2009 (PRPA).

To Whom It May Concern:

As a member of the non-professional (amateur/avocational) fossil club/society sector of paleontology, I echo the thoughts of many. We are a large component of the overall paleontological community, comprised of 70+ organizations across the country with between 10,000 and 14,000 members (ref. *myFOSSIL.org*). These clubs/societies have 501c(3) designations and were formed between the '60s and '80s by amateurs with a passion for paleontology. We operate with by-laws, mission statements, elected officers and a board of directors. We hold regular meetings with guest speakers, produce newsletters, maintain websites (and social media presence), do an enormous amount of outreach, and frequently collect in the field. Most also publish literature, have ethics policies, carry liability insurance, have professional advisors, and are affiliated with various professional and non-professional organizations. We also award grants and scholarships, and give out donations to students, professionals, and non-professionals. A subset publishes scientific paleontological papers in peer-reviewed media.

While PRPA directly addresses professional paleontologists and casual collectors, it seems to omit any provisions for this large block of the paleontological community which has much to offer.

**PRPA Sec. 6302. Management.**, gives clear guidance that partnering with non-Federal partners and the general public in inventorying, monitoring, and conducting scientific and educational use of paleontological resources is desirable.

**Sec. 6302. Management.**

- (a) In General.— The Secretary shall manage and protect paleontological resources on Federal Land using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations and policies. These plans shall emphasize inter-agency coordination and collaborative efforts where possible with non-Federal partners, the scientific community and the general public.*

As pertains to “scientific use of paleontological resources”, as mentioned above, there is a subset of the amateur/avocational community that is peer review published. Of 15 clubs surveyed in a 2016 study of amateur/avocational paleontologists, 51 individuals were peer reviewed. Many of these

individuals had been published multiple times. Extrapolated to 70+ organizations this becomes several hundred published individuals and many hundreds of peer reviewed published articles. I am a member of this category.

Currently, if we see something odd or different in the field, we bring it back home to check it out. (Occasionally something we thought was ordinary in the field is found to be something unusual or rare after we get it home and clean it up.) Once determined to be of scientific value, we either donate it to a museum or university for research or write it up ourselves. If we are writing it up ourselves, we do the cleaning, study and initial curation at our homes. (Again, there are hundreds of us doing this). When we publish our findings we donate the material to a museum or university. This activity is part of the spirit of PRPA and should be continued and encouraged; however, the way the proposed DOI rules are currently written, our entire segment of the paleontological community is effectively disenfranchised.

We do not qualify, nor would it be feasible for us to obtain a permit before collecting the unusual item we see on the ground in front of us. We do not have access to an approved repository in which to place our finds while we research them. We are restricted from collecting anything “uncommon”. In short, none of our researching and publishing will be possible – at a huge cost and loss to the scientific world.

The definition of non-commercial personal use under the “What is Casual Collecting” section of the DOI proposed rules includes a restriction on research. PRPA does not include this restriction.

We feel that the DOA proposed rule:

*§49.810 (a)(4): “Non-commercial personal use means a use other than for purchase, sale, financial gain or research.”*

Should be changed to read:

*§49.810 (a)(4): “Non-commercial personal use means a use other than for purchase, sale or financial gain.”*

In addition, because neither we nor anyone else can often distinguish between “common” and “uncommon” specimens in the field, and because research and publishing by avocational paleontologists should be encouraged, we propose replacing:

*§49.810 (a)(1): “Common invertebrate or plant paleontological resources are invertebrate or plant fossils that have been established as having ordinary occurrence and wide-spread distribution. Not all invertebrate or plant resources are common.”*

With:

*§49.810 (a)(1): “We recognize that not all non-vertebrate paleontological resources are common. However, non-vertebrate paleontological resources will be considered to be common until discovered or determined to be otherwise. When figured, published, or stated to be otherwise, they must then be transferred to a repository.”*

These changes would allow the amateur/avocational community to continue to publish using scientific principles as PRPA requests, and keep us contributing to paleontology and adding to the knowledge of our planet.

In **Sec. 6303. Public Awareness and Education Program**, PRPA charges the agencies with establishing a program to increase the awareness about the significance of paleontological resources.

The 2016 South East Geological Society (SEGSA) presentation found the 15 clubs/societies studied had 185 outreach events which impacted roughly 70,000 members of the general public annually at a variety of venues. This number is conservative as the community currently does not track these events for reporting purposes. Extrapolated to 70+ organizations, they hold roughly 1,000 outreach events at schools, libraries, community centers, fossil fairs and festivals, museum and civic events,

and host field trips for school age children, Boy and Girl Scout clubs, etc., impacting over 350,000 members of the general public annually. We are the face of paleontology to the communities in which we reside. DOI could partner with the fossil club/society community by furnishing us with talking points and/or handouts, outreach encouragement, and require us to track event and participant numbers and thus go a long way towards meeting the goal of PRPA Sec. 6303., with little expense to the agencies.

Many fossils are given away to children at these outreach events. According to the 2016 study, approximately 500 lbs. per club, which extrapolates to 17.5 tons of fossils given away annually for the 70+ organizations. Most of these fossils are invertebrates. Most clubs/societies are not located near federal land, but for those that are, the current collecting limits of 25 lbs. per person per day with an annual cap of 100 lbs. makes it difficult if not impossible to reach their donation goals. It also does not factor in the fact that many invertebrate fossils are often found in matrix, also impacting how many specimens can be recovered for donation.

The draft EA (BLM Environmental Assessment) concludes that “Casual collecting activities are not anticipated to cause adverse impact to paleontological or other natural or cultural resources.” Since we are already collecting on Federal land and have been for decades without major impact, it seems unnecessary to impose unreasonable weight restrictions on amounts of fossils collected.

We propose replacing:

**§49.810 (a)(2):** *“Reasonable amount means a maximum of 25 pounds per day per person, not to exceed 100 pounds per year per person. Pooling of individuals’ daily amounts to obtain pieces in excess of 25 pounds is not allowed.”*

With:

**§49.810 (a)(2):** *“Reasonable amount means a maximum of 50 pounds a day per person, not to exceed 1,000 pounds a year.”*

This will also benefit the avocational publishing sector that sometimes looks at population studies, etc. requiring additional material above the proposed collection limits. I personally have collected close to a ton of specimens and matrix for at least two of the peer reviewed papers I have authored.

Because of the way fossils and fossiliferous layers exist in nature, the DOI proposed definitions on “negligible disturbance” are not realistically feasible.

**§49.810(a)(3):** *Negligible disturbance means little or no change to the surface of the land and minimal or no effect to natural and cultural resources, specifically:*

- (i) In no circumstances may the surface disturbance exceed 1 square yard (3 feet x 3 feet) per individual collector;*
- (ii) For multiple collectors, each square yard of surface disturbance must be separated by at least 10 feet;*
- (iii) All areas of surface disturbance must be backfilled with the material that was removed so as to render the disturbance substantially unnoticeable to the casual observer.*

Fossil remains are rarely distributed evenly or contiguously. Often, they are found in one thin stratigraphic layer that may have been uplifted, folded, and otherwise changed over time. As a result, the fossil site can have any size, shape, or configuration. Given the nature of deposition, collecting fossils often requires trying different areas (exploratory digging). The proposed regulation needs to accommodate surface collecting over a larger area than “1 square yard.” Separating different collectors by specific distance is impractical as well, often sites are small and confined. We feel a good fix to all of these issues would be to characterize and equate “negligible disturbance” to “low impact disturbance.” This would agree with BLM’s standard and aligns with BLM’s study (in

progress) on Disturbance Caps (est. May 2017, Barstow, CA field office). BLM characterizes amateur rock-hounding as a “low impact disturbance” activity contrasted with “high impact disturbance” caused by commercial mining activity. This difference can be seen visually from aerial surveying at different elevations. We recommend applying to non-vertebrate fossil collecting the same “low impact disturbance” standard used for rock-hounding.

We therefore suggest changing:

**§49.810(a)(3):** *Negligible disturbance means little or no change to the surface of the land and minimal or no effect to natural and cultural resources, specifically:*

- (iv) *In no circumstances may the surface disturbance exceed 1 square yard (3 feet x 3 feet) per individual collector;*
- (v) *For multiple collectors, each square yard of surface disturbance must be separated by at least 10 feet;*
- (vi) *All areas of surface disturbance must be backfilled with the material that was removed so as to render the disturbance substantially unnoticeable to the casual observer.*

To:

**§49.810(a)(3):** *Negligible disturbance means low impact activity equivalent to that currently used in rock-hounding.*

- (i) *All areas of surface disturbance must be backfilled with the material that was removed so as to render the disturbance substantially unnoticeable to the casual observer when safe to do so.*

Paleontological societies encourage responsible stewardship of earth’s paleontological resources. They promote scientific research, communication, public education and play a valuable role in preserving earth’s paleontological resources.

The non-vertebrate professional paleontological community has a long history of cooperation with and reliance on amateur paleontologists to be its “boots on the ground”. We have the numbers, are out in the field frequently and by sharing our discoveries of new species and new localities have enriched the paleontological knowledge of our planet countless times over. Paleo Quest stated that 75% of scientifically relevant specimens are donated by amateurs.

It is so important that the proposed regulation wording not marginalize serious amateur fossil collectors or collecting.

We are grateful for the thoughtful drafting of the proposed regulation under the PRPA. We appreciate having the opportunity to provide comments on the Proposed Rule to amend Title 43 of the CFR by adding a new part 49, and we look forward to seeing the interests and values of the community of amateur fossil collectors reflected in the final version of Part 49. We look forward to being given the opportunity to review the next draft and provide input.

Sincerely,

Linda McCall, President  
North Carolina Fossil Club  
P.O. BOX 25276  
Raleigh, NC 27611-5276