

The Bureau of Land Management (BLM) and Bureau of Reclamation (BOR) recently released their proposed rules to comply with the Paleontological Resource Preservation Act (PRPA). It is important that we understand the reason they are proposing this rule and how to best respond during the comment period.

The purpose of this discussion is to primarily educate the “casual collector” and others on PRPA and how this rule will affect the collection of fossils without a permit, i.e. “casual collecting”. It is critical that each of us recognize our individual voices will make a difference in affecting this proposed rule. Everyone needs to take the time to understand the rule, comment on it and encourage others to do the same, even if this rule does not directly affect you. Those who are directly affected will appreciate your support.

Comments on the proposed rule must be received by February 6, 2017. You may submit comments, identified by Regulation Identifier Number (RIN) 1093-AA16, by any of the following methods:

- 1) Federal eRulemaking Portal: [http:// www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments to Docket No. NPS-2016-0003.
- 2) Mail to: Julia Brunner, Geologic Resources Division, National Park Service, P. O. Box 25287 Denver, CO 80225-0287.

There is an additional comment period that is specific to the forms that are associated with this rule. If you are concerned about the form to get a permit, repository receipt or respond to a notice of civil penalty you would need to comment on these forms prior to January 6th, 2017. (A list of these forms can be found on page 13 following the link near the end of this document.)

Here are a few guidelines that should be considered while preparing your comments.

- The law requires that the agencies, in this case the BLM, make rules to bring them into compliance with the law. Comment on the rule, not the law.
- Don't use a petition or a form letter. Form letters will be lumped with all other similar form letters and counted as a single comment.
- It is important that organizations comment, however this does not relieve individuals of the need to submit their comments. The more comments submitted the stronger the voice, thousands of comments are needed.
- Comments such as “this is bad”, or “dumb”, have no substance and are not considered in the record. Similarly, comments that only criticize the rule, but offer no preferred alternative have little or no weight in affecting the final rule.
- Comments should be respectful, articulate, well thought out and evidence based.

This is an example of how to write a meaningful comment. Follow this simple format when commenting on aspects of the rule you would like changed.

- Indicate where in the document you found a problem or concern.
 - For example: “In 49.810(a)(1) I am concerned about the definition of “Common invertebrate or plant paleontological resources”
- Explain in clear and concise language what you see as a problem(s) with the statement.

- For example: “The rule currently says ‘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 paleontological resources are common’ The term ‘common’ is subjective and is not a scientific term with definitive meaning. The draft rule defines common as ‘ordinary and widespread’ with no reference to their use in science. This further confuses the issue because ‘ordinary’ is just as subjective as ‘common’ and ‘widespread’ is a relative term. Fossils, just like modern organisms, were limited in their geographic extent based on their biology and the paleoenvironment. Neither of the terms used to define common are measurable nor are they based in science and thus not enforceable in a consistent manner.”
- State how you recommend the rule should read.
 - For example: “I suggest the rule read: ‘Common invertebrate or plant paleontological resources are invertebrate or plant fossils that have been described or are known to science by an aggregate of 10 specimens of a species (or morphotype if not yet formally described) in recognized institution(s). Not all invertebrate or plant paleontological resources are common. The public can determine which fossils are common by consulting the Common Fossil Database maintained by the BLM at www.blm.gov/commonfossils. This database will be updated and posted for public use continuously. At a minimum collections of all recognized repositories will be reviewed once a year and the data added to database and posted for public access as soon as the review for each institution is completed.’”

As stated above, PRPA requires the agencies to write rules regulating the collection of fossil resources on Federal Land. In the case of “casual collecting” the law reads: “the term ‘casual collecting’ means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for non-commercial personal use, either by surface collection or the use of non-powered hand tools resulting in only negligible disturbance to the Earth’s surface and other resources. As used in this paragraph, the terms ‘reasonable amount’, ‘common invertebrate and plant paleontological resources’ and ‘negligible disturbance’ shall be determined by the Secretary.”

They are further told: “The Secretary shall allow casual collecting without a permit on Federal land controlled or administered by the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service....”

The agencies are required to do two things regarding “casual collecting”, nothing more. First, they shall allow casual collecting. Second, they shall define “reasonable amount”, “common invertebrate and plant paleontological resources” and “negligible disturbance”. Anything more than this will result in restrictions and regulations that are beyond the scope of the law.

The proposed rule is located at

<https://www.gpo.gov/fdsys/pkg/FR-2016-12-07/pdf/2016-29244.pdf> The “casual collecting”

portion is found in Subpart I on pages 23 and 24. Pay particular attention to the definitions and the limits placed on fossil collectors. The rule defines the terms “reasonable amount”, “common invertebrate and plant paleontological resources” and “negligible disturbance” so restrictively that collecting fossils as a hobby will be impractical on most lands managed by the BLM. A person will be breaking the law and therefore subject to fines and imprisonment for up to five years if any of the following apply:

- 1) collected a single rock no larger than a piece of paper 3 inches thick (this exceeds 25 lbs),
- 2) possesses a fossil that could be vaguely defined as not being “common”,
- 3) dug a hole a foot larger than allowed, or,
- 4) within ten feet of an adjacent hole.

Had this rule been in place for the last 100 years, thousands of new species discovered by amateurs and hobby collectors would never have been contributed to science. Innumerable elementary school students across the country would not have received educational programs from local fossil lovers and perhaps been given their first fossil. Many paleontologists in America would not have had their interests kindled by the thrill of discovery.

Consider the long-reaching negative consequences this rule will have on the science of paleontology, education of our children, and hobby collecting. Please take the time to tell the BLM and BOR how you recommend they change the rules to ensure the long and healthy life of paleontology as a profession and hobby.

Glade Gunther
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