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Comment on FR Doc # 2016-29244

Posted by the **National Park Service** on Feb 9, 2017

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Paleo Rule Comments 1.2017-final



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Jan 29, 2017

January 30, 2017

Re: RIN 1093-AA16

To Whom It May Concern:

On behalf of the American Institute of Biological Sciences (AIBS), I offer the following comments on the Department of the Interior (DOI) proposed rule under the Paleontological Resources Preservation Act.

The AIBS is a scientific, professional society that works to provide decision-makers with vetted information that advances the biological sciences for the benefit of science and society. Our approximately 150 member organizations represent the breadth of the biological sciences and have a combined membership of more than 200,000 scientists and science educators.

It is appreciated that the Department is promulgating a rule to protect the paleontological resources on federal lands managed by the Department of the Interior. The following comments are offered to clarify and improve the rule.

There has been much concern and discussion in the scientific community about the need to reduce burdens on researchers who receive federal funding. Indeed, the recently enacted “American Innovation and Competitiveness Act” (Public Law No. 114-329) establishes a new interagency working group to provide recommendations on eliminating unnecessary and redundant paperwork for researchers and institutions. Congress directed the group to explore uniform grant proposals.

The proposed permit process does not seem to comport with the intent of this law as it does not ease the paperwork burden on scientists. Instead, two different permit applications would be established: one for the National Park Service and another for other Interior bureaus [49.65(b)]. The history that led to the proposed arrangement is understood, however, we encourage the bureaus to continue to pursue a uniform and unified permit application system. Moreover, although the Bureau of Land Management, the Bureau of Reclamation, and the Fish and Wildlife Service are all using DI Form 9002 (Paleontological Resource Use Permit Application), each bureau has its own instructions for how to complete each field on the form. The differences in the instructions are significant enough that an applicant would have to complete a new application for each permit they seek, which is inefficient and not the streamlined approach as the department proposed in its supporting statement for the Paperwork Reduction Act submission. The instructions for DI Form 9002 should be unified across bureaus.

Certain elements of the permit application need clarification. The draft rule is unclear regarding the level of specificity required for the “proposed content and nature of any collection to be made under the permit” [49.65(b)(4)]. This could be interpreted as a requirement to list the species that will be collected. Researchers do not know in advance what they might find, so it is not possible to list species in advance. In addition, it is not always possible to know the exact geographic location for digging until a survey is initiated [49.65(b)(3)].

We have significant concerns with the prohibition on disclosing information about the specific location of paleontological resources [49.75(a)(1)]. Publication of localities is critical for scientific replication of the work and important for research using large databases of fossils.

Too much credit is given to the ability of casual collectors to differentiate species of conodonts or nonvertebrate microfossils. The supplementary information for the proposed rule states “Bureaus may individually determine that certain conodonts or nonvertebrate microfossils lack paleontological interest and therefore are not paleontological resources on all or on portions of land they administer.” It also states that a “knowledgeable collector” will be held to a higher standard than the general public in knowing if a fossil is common or not. Given the specialized knowledge needed to know these differences, it is not likely that casual collectors will be able to make these distinctions.

Section 49.300(d) would criminalize scientific misconduct such as making or submitting a false record or label for a fossil. We do not condone scientific misconduct, but it should not be punished by up to five years in prison. The existing federal rules and policies regarding scientific misconduct provide sufficient penalties for researchers who knowingly fabricate or falsify data or findings.

Although it is outside the scope of the draft rule, it is worth noting that the organizations that house paleontological resources bear a large financial burden in terms of storage, curation, and reporting requirements. Although many federal collections are curated by Interior, many others are located in non-governmental facilities, such as museums and universities. The federal government should do more to defray the associated costs of curation of federal paleontological resources.

Thank you for your thoughtful consideration of our concerns. If you have any questions, please contact me at rgropp@aibs.org.

Sincerely,



Robert Gropp, PhD
Interim Co-Executive Director