



Fossils and Paleontology

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Laws, Regulations, & Policies

Laws

The National Park Service (NPS) and other federal agencies operate under the authority of federal law. For example, in 1916 Congress passed the National Park National Park Service Organic Act which established the NPS as a bureau within the Department of the Interior. The language within this legislation helped to define the authority and mission of the NPS. The NPS operates under many laws, some of which are specific to the NPS, and other laws such as the Clean Air Act or Endangered Species Act which are applied to other agencies beyond the NPS.

The NPS's general authority to conserve and manage resources in parks is based on the [NPS Organic Act of 1916](https://www.nps.gov/parkhistory/online_books/anps/anps_1i.htm) (https://www.nps.gov/parkhistory/online_books/anps/anps_1i.htm) (54 U.S.C. § 100101), which states that "the fundamental purpose of the said parks...is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

In 1906, the [Antiquities Act](https://www.nps.gov/archeology/pubs/Lee/index.htm) (<https://www.nps.gov/archeology/pubs/Lee/index.htm>) (54 U.S.C. § 320301–320303) was enacted to help protect any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States. The act further authorizes the President of the United States to declare national monuments by public proclamation of historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest on federal lands. The Antiquities Act was used to proclaim several national monuments based upon



Law Enforcement Ranger Nainoa Keana'aina, Hawai'i Volcanoes National Park.

NPS photo by Jay Robinson.

significant paleontological resources including Petrified Forest National Park, Dinosaur National Monument, Fossil Cycad National Monument (now abolished), and most recently Waco Mammoth National Monument.

The [Archaeological Resources Protection Act of 1979](https://www.nps.gov/archeology/tools/laws/ARPA.htm) (<https://www.nps.gov/archeology/tools/laws/ARPA.htm>) (16 U.S.C. 470aa-mm) includes within the definition of archaeological resource the following statement, “Non-fossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in an archaeological context.” A number of other federal laws consider paleontological resources in cases where they are associated with other cultural resources including archaeological, historic or ethnographic resources. In these circumstances, paleontological resources may be considered within the scope of the **National Historic Preservation Act** of 1966 (NHPA) (16 U.S.C. § 470 et seq.); or the **Native American Graves Protection and Repatriation Act** (NAGPRA) (25 U.S.C. § 3001 et seq.).

The **Federal Cave Resources Protection Act of 1988** (16 U.S.C. § 4301 – 4309) defines the term “cave resource” to include any material or substance occurring naturally in caves on Federal lands, such as animal life, plant life, paleontological deposits, sediments, minerals, speleogens, and speleothems. Therefore, any reference to “cave resource” in the law applies to paleontological resources.

The **National Parks Omnibus Management Act of 1998** (54 U.S.C. § 100101) authorizes the NPS to consider the risks associated with the public release of sensitive resource information. Section 207 of the act addresses the confidentiality of information concerning the nature and specific location of a National Park System resource which is endangered, threatened, rare, or commercially valuable, of mineral or paleontological objects within units of the National Park System. The act further states that a determination should be made whether the disclosure of the information would further the purposes of the unit of the National Park System in which the resource or object is located and would not create an unreasonable risk or harm, theft, or destruction of the resource or object, including individual organic or inorganic specimens; and, disclosure is consistent with other applicable laws protecting the resource or object.

The primary legislation pertaining to fossils from NPS and other federal lands is the [Paleontological Resources Preservation Act of 2009](https://irma.nps.gov/DataStore/Reference/Profile/2274127) (<https://irma.nps.gov/DataStore/Reference/Profile/2274127>) (PRPA) (16 U.S.C. § 470aaa 1-11) which was enacted on March 30, 2009 within the **Omnibus Public Land Management Act of 2009**. PRPA directs the Department of Agriculture (U.S. Forest Service) and the Department of the Interior (National Park Service, Bureau of Land Management, Bureau of Reclamation, and Fish and Wildlife Service) to manage and protect paleontological resources on Federal land using scientific principles and expertise. The Secretary shall develop appropriate plans for [inventory](https://www.nps.gov/subjects/fossils/inventory.htm) (<https://www.nps.gov/subjects/fossils/inventory.htm>), [monitoring](https://www.nps.gov/subjects/fossils/resource-monitoring.htm) (<https://www.nps.gov/subjects/fossils/resource-monitoring.htm>), and the [scientific](https://www.nps.gov/subjects/geology/permits.htm) (<https://www.nps.gov/subjects/geology/permits.htm>) and [educational](https://www.nps.gov/subjects/fossils/outreach-interpretation-and-education.htm) (<https://www.nps.gov/subjects/fossils/outreach-interpretation-and-education.htm>) use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

Additionally, the federal land managing agencies were directed to establish a program to increase public awareness about the significance of paleontological resources. The National Park Service established [National Fossil Day](https://www.nps.gov/subjects/fossilday/index.htm) (<https://www.nps.gov/subjects/fossilday/index.htm>) to address this provision in the law and to promote the scientific and educational values of fossils. The National Fossil Day partnership consists of more than 380 partners across the U.S. including museums, science and teacher organizations, universities, libraries, agencies, fossil sites, amateur fossil groups and others interested in fossils.

PRPA provides specific mandates for administering paleontological resource [research and collecting permits](https://www.nps.gov/subjects/fossils/research-and-permits.htm) (<https://www.nps.gov/subjects/fossils/research-and-permits.htm>) and the **curation** of fossil specimens in museum collections. The law

also includes provisions for both criminal and civil penalties associated with paleontological resource crimes on federal lands. Section 6310 of PRPA specifically states, "*As soon as practical after the date of enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this subtitle, providing opportunities for public notice and comment.*" More information on the PRPA regulations is presented below.

Regulations

The NPS governs activities in paleontological parks through the general NPS regulations, found at [36 Code of Federal Regulations \(C.F.R.\) Chapter I \(http://162.140.57.127/cgi-bin/text-idx?SID=cfea9388e1f00b13b11f4159eca1dd5a&mc=true&tpl=/ecfrbrowse/Title36/36cfr2_main_02.tpl\)](http://www.ecfr.gov/cgi-bin/textidx?SID=cfea9388e1f00b13b11f4159eca1dd5a&mc=true&tpl=/ecfrbrowse/Title36/36cfr2_main_02.tpl). These regulations apply to federally owned lands and waters administered by the NPS within park boundaries and also to some nonfederal lands and waters within park boundaries (36 C.F.R § 1.2). The regulations directly related to paleontology questions in parks include:

§2.1 Preservation of natural, cultural and archeological resources.

- (a) Except as otherwise provided in this chapter, the following is prohibited:
 - (1) Possessing, destroying, injuring, defacing, removing, digging, or disturbing from its natural state:
 - (iii) Non-fossilized and fossilized paleontological specimens, cultural or archeological resources, or the parts thereof.
 - (iv) A mineral resource or cave formation or the parts thereof.

§2.5 Research Specimens

- (a) Taking plants, fish, wildlife, rocks or minerals except in accordance with other regulations of this chapter or pursuant to the terms and conditions of a specimen collection permit, is prohibited.
- (b) A specimen collection permit may be issued only to an official representative of a reputable scientific or educational institution or State or Federal agency for the purpose of research, baseline inventories, monitoring, impact analysis, group study, or museum display when the superintendent determines that the collection is necessary to the stated scientific or resource management goals of the institution or agency and that all applicable Federal and State permits have been acquired, and that the intended use of the specimens and their final disposal is in accordance with applicable law and Federal administrative policies. A permit shall not be issued if removal of the specimen would result in damage to other natural or cultural resources, affect adversely environmental or scenic views, or if the specimen is readily available outside of the park area.
- (g) Specimen collection permits shall contain the following conditions:
 - (1) Specimens placed in displays or collections will bear official National Park Service museum labels and their catalog numbers will be registered in the National Park Service National Catalog.
 - (2) Specimens and data derived from consumed specimens will be made available to the public and reports and publications resulting from a research specimen collection permit shall be filed with the superintendent.
- (h) Violation of the terms and conditions of a permit issued in accordance with this section is prohibited and may result in the suspension or revocation of a permit.

The [Paleontological Resources Preservation Act \(https://irma.nps.gov/DataStore/Reference/Profile/2274127\)](https://irma.nps.gov/DataStore/Reference/Profile/2274127) (PRPA) rulemaking led to the development of a Department of Interior level regulation. The proposed PRPA rule was published in the Federal Register on Wednesday, December 7, 2016 and was available for public review and comment until Monday, February 6, 2017. The proposed PRPA regulations resulted in 1611 public comments which were considered in the development of the final PRPA regulations. The final DOI regulation for PRPA is available on the Federal Register website at: <https://www.federalregister.gov/> and search for Regulation Identification Number 1093-AA16.

The U.S. Forest Service published the Department of Agriculture version of the [PRPA regulations in the Federal Register](#)

(www.ecfr.gov/cgi-bin/text-idx?SID=7b7796f0ea8bf9aa22cf76da4fb5d09&mc=true&node=pt36.2.291&rgn=div5) in April 2015 (36 C.F.R. § 291).

Policies

Additionally, the NPS manages paleontology parks as directed by the [NPS Management Policies](https://www.nps.gov/orgs/1548/upload/ManagementPolicies2006.pdf) (<https://www.nps.gov/orgs/1548/upload/ManagementPolicies2006.pdf>) (2006) (PDF - 2.5MB). The policies directly related to paleontology questions in parks include:

Section 1.9.2.3 Information Confidentiality "Although it is the general NPS policy to share information widely, the Service also realizes that providing information about the location of park resources may sometimes place those resources at risk of harm, theft, or destruction..."

Section 4.8.2.1 Paleontological Resources and Their Contexts "Paleontological resources, including both organic and mineralized remains in body or trace form, will be protected, preserved, and managed for public education, interpretation, and scientific research. The Service will study and manage paleontological resources in their paleoecological context (that is, in terms of the geologic data associated with a particular fossil that provides information about the ancient environment)."

"Superintendents will establish programs to inventory paleontological resources and systematically monitor for newly exposed fossils, especially in areas of rapid erosion. Scientifically significant resources will be protected by collection or by on-site protection and stabilization. The Service will encourage and help the academic community to conduct paleontological field research in accordance with the terms of a scientific research and collecting permit. Fossil localities and associated geologic data will be adequately documented when specimens are collected. Paleontological resources found in an archeological context are also subject to the policies for archeological resources. Paleontological specimens that are to be retained permanently are subject to the policies for museum objects."

"The Service will take appropriate action to prevent damage to and unauthorized collection of fossils. To protect paleontological resources from harm, theft, or destruction, the Service will ensure, where necessary, that information about the nature and specific location of these resources remains confidential, in accordance with the National Parks Omnibus Management Act of 1998."

"Parks will exchange fossil specimens only with other museums and public institutions that are dedicated to the preservation and interpretation of natural heritage and qualified to manage museum collections. Fossils to be de-accessioned in an exchange must fall outside the park's scope of collection statement. Systematically collected fossils in an NPS museum collection in compliance with 36 CFR 2.5 cannot be outside the scope of collection statement. Exchanges must follow de-accession procedures in the Museum Handbook, Part II, chapter 6."

"The sale of original paleontological specimens is prohibited in parks. The Service generally will avoid purchasing fossil specimens. Casts or replicas should be acquired instead. A park may purchase fossil specimens for the park museum collection only after making a written determination that:

- the specimens are scientifically significant and accompanied by detailed locality data and pertinent contextual data;
- the specimens were legally removed from their state of origin, and all transfers of ownership have been legal;
- the preparation of the specimens meets professional standards;
- the alternatives for making these specimens available to science and the public are unlikely; and

- acquisition is consistent with the park's enabling legislation and scope of collection statement, and acquisition will ensure the specimens' availability in perpetuity for public education and scientific research."

"All NPS construction projects in areas with potential paleontological resources must be preceded by a pre-construction surface assessment prior to disturbance. For any occurrences noted, or when the site may yield paleontological resources, the site will be avoided or the resources will, if necessary, be collected and properly cared for before construction begins. Areas with potential paleontological resources must also be monitored during construction projects."

Section 10.2.4.6 Artifacts and Specimens "Concessioners will not be permitted to sell any merchandise in violation of laws, regulations, or NPS policies. The park superintendent may prohibit the sale of some items for retail sale because the merchandise is locally sensitive or inappropriate for sale. The sale of original objects, artifacts, or specimens of a historic, archeological, paleontological, or biological nature is prohibited. Replicated historic, archeological, paleontological, or biological objects, artifacts, or specimens may be sold if they are obvious replicas and clearly labeled. Any geological merchandise approved for sale or exhibit by concessioners must be accompanied by appropriate educational material and a written disclaimer clearly stating that such items were not obtained from inside park boundaries. The proposed sale of any replicas, or of geological merchandise, must be addressed in the gift shop merchandise plan."

Related Links

- [NPS—Paleontology—Legal Instruments \(https://www.nps.gov/subjects/fossils/official-state-fossils.htm\)](https://www.nps.gov/subjects/fossils/official-state-fossils.htm)
- [2000 Report to Congress: Assessment of Fossil Management on Federal & Indian Lands \(590 KB PDF\) \(https://www.blm.gov/sites/blm.gov/files/programs_paleontology_quick%20links_Assessment%20of%20Fossil%20Management%20on%20Federal%20%26%20Indian%20Lands%2C%20May%202000.pdf\)](https://www.blm.gov/sites/blm.gov/files/programs_paleontology_quick%20links_Assessment%20of%20Fossil%20Management%20on%20Federal%20%26%20Indian%20Lands%2C%20May%202000.pdf)
- [Legislative History of Paleontological Resources Preservation Act \(https://www.congress.gov/congressional-report/110th-congress/senate-report/18/1\)](https://www.congress.gov/congressional-report/110th-congress/senate-report/18/1)
- [NPS Paleontological Research and Permits \(https://www.nps.gov/subjects/fossils/research-and-permits.htm\)](https://www.nps.gov/subjects/fossils/research-and-permits.htm)

For information from other inter-agency partners, see:

- Bureau of Land Management, Paleontology
<https://www.blm.gov/paleontology> (<https://www.blm.gov/paleontology>)
- Bureau of Reclamation, fossil resources
<https://www.blm.gov/programs/cultural-resources/paleontology> (<https://www.blm.gov/programs/cultural-resources/paleontology>)
- U.S. Fish and Wildlife Service, historic preservation
<https://www.fws.gov/historicPreservation/crp/index.html> (<https://www.fws.gov/historicPreservation/crp/index.html>)
- USDA Forest Service, fossils and paleontology
<https://www.fs.fed.us/science-technology/geology/paleontology> (<https://www.fs.fed.us/science-technology/geology/paleontology>)

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SUBJECTS	PARKS	ORGANIZATIONS
Abandoned Mineral Lands (https://www.nps.gov/subjects/abandoned_minerallands)	Agate Fossil Beds National Monument (https://www.nps.gov/agfo)	Geologic Resources Division (https://www.nps.gov/orgs/1088)
Caves and Karst (https://www.nps.gov/subjects/caves)	Badlands National Park (https://www.nps.gov/badl)	
Energy and Minerals Management (https://www.nps.gov/subjects/energyminerals)	Big Bend National Park (https://www.nps.gov/bibe)	
+ View All Related Subjects (https://www.nps.gov/experiencemore/related-content.htm?subjectID=12E86B3E-F8D9-4501-BA8B-42B7084BDAF4#subject)	+ View All Related Parks (https://www.nps.gov/experiencemore/related-content.htm?subjectID=12E86B3E-F8D9-4501-BA8B-42B7084BDAF4#park)	