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(c) To the extent possible, the Secretary of Agriculture and the Secretary of the Interior will coordinate in the implementation of the Act.

§ 291.2 Authorities.

The regulations in this part are promulgated pursuant to the Omnibus Public Lands Act, Title VI, subtitle D on Paleontological Resources Preservation, 16 U.S.C. 470aaa through 16 U.S.C. 470aaa-11, which requires the Secretary to issue such regulations as are appropriate to carry out the Act.

§ 291.3 Exceptions.

The regulations in this part do not:

(a) 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 mineral 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 and Management Act (43 U.S.C. 1701-1784), 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);

(b) Invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under existing laws and authorities relating to reclamation and multiple uses of National Forest System lands;

(c) Apply to Indian lands;

(d) Apply to any materials associated with an archaeological resource (site), as defined in 16 U.S.C. 470, or any cultural items defined in 16 U.S.C. 30001;

(e) Apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under the Act;

(f) Affect any land other than National Forest System lands, or affect the lawful recovery, collection, or sale of paleontological resources from land other than National Forest System lands; or

(g) Create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity.

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No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this part.

§ 291.4 Preservation of existing authorities.

The regulations in this part do not alter or diminish the authority of the Forest Service under any other law to manage, preserve, and protect paleontological resources on National Forest System lands in addition to the protection provided under the Act or this part.

§ 291.5 Definitions.

Act means Title VI, Subtitle D of the Omnibus Public Land Management Act on Paleontological Resources Preservation (16 U.S.C. 470aaa through 470aaa-11).

Associated records means original records (or copies thereof) that document the efforts to locate, evaluate, record, study, preserve, or recover paleontological resources, including but not limited to paper and electronic documents such as:

(1) *Primary records* relating to the identification, evaluation, documentation, study, preservation, context, or recovery of a paleontological resource, regardless of format;

(2) *Public records* including, but not limited to, land status records, agency reports, publications, court documents, agreements; and

(3) *Administrative records and reports* generated by the permitting process and pertaining to the survey, excavation, or other study of the resource.

Authorized Officer means the person or persons to whom authority has been delegated by the Secretary to take action under the Act.

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.

Collection means all paleontological resources resulting from excavation or

removal from National Forest System lands as well as any associated records resulting from excavation or removal from National Forest System lands under a permit.

Common invertebrate and plant paleontological resources are invertebrate or plant fossils that are of ordinary occurrence and wide-spread distribution. Not all invertebrate and plant paleontological resources are common.

Consumptive analysis means the alteration, removal, or destruction of a paleontological specimen, or parts thereof, from a collection for scientific research.

Curatorial services and curation mean those activities pertinent to management and preservation of a collection over the long term according to professional museum and archival practices, including at a minimum:

- (1) Accessioning, cataloging, labeling, and inventorying a collection;
- (2) Identifying, evaluating, and documenting a collection;
- (3) Storing and maintaining a collection using appropriate methods and containers, and under appropriate environmental conditions and physical security controls;
- (4) Periodically inspecting a collection and taking such actions as may be necessary to preserve it;
- (5) Providing access and facilities to study a collection;
- (6) Handling, cleaning, sorting, and stabilizing a collection in such a manner as to preserve it; and
- (7) Lending a collection, or parts thereof, for scientific, educational or preservation purposes.

Federal land means land controlled or administered by the Secretary except for Indian land as defined in 16 U.S.C. 470aaa.

Fossil means any fossilized remains, traces, or imprints of organisms, preserved in or on the Earth's crust.

Fossilized means preserved by natural processes, including, but not limited to burial in accumulated sediments, preservation in ice or amber, or replacement by minerals, or alteration by chemical processes such as permineralization whereby minerals are deposited in the pore spaces of the hard parts of an organism's remains,

which may or may not alter the original organic content.

Indian land means land of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

National Forest System lands means those lands in a nationally significant system of federally owned units of forest, range, and related lands consisting of national forests, purchase units, national grasslands, land utilization project areas, experimental forest areas, experimental range areas, designated experimental areas, other land areas, water areas, and interests in lands that are administered by the Forest Service, U.S. Department of Agriculture, or designated for administration through the Forest Service. As used herein, the term "National Forest System lands" refers to Federal land controlled or administered by the Secretary of Agriculture.

Negligible disturbance means little or no change to the surface of the land and causing minimal or no effect on other resources. The Authorized Officer has discretion to determine what constitutes negligible disturbance.

Non-commercial personal use means uses other than for purchase, sale, financial gain, or research. Research, in the context of these regulations, is considered to be a structured activity undertaken by qualified individuals with the intent to obtain and disseminate information via publication in a peer-reviewed professional scientific journal or equivalent venue, which increases the body of knowledge available to a scientific community.

Non-powered hand tools mean small tools that do not use or are not operated by a motor, engine, or other power source. These tools are limited to small tools that can be easily carried by hand such as geologic hammers, trowels, or sieves, but not large tools such as full-sized shovels or pick axes.

Paleontological locality, location, and site mean a geographic area where a paleontological resource is found. Localities, locations, and sites may be relatively large or small.

Paleontological resource means any fossilized remains, traces, or imprints

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of organisms, preserved in or on the earth's crust, that are of paleontological interest, and that provide information about the history of life on earth. The term does not include:

(1) Any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(2) Any cultural item (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

Paleontological site is used interchangeably with paleontological locality or location, but is never intended to be synonymous with "archaeological site."

Reasonable amount means a maximum per calendar year of one-hundred pounds by weight, not to exceed twenty-five pounds per day.

Repository means a facility, such as a museum, paleontological research center, laboratory, or an educational or storage facility managed by a university, college, museum, other educational or scientific institution, or a Federal, State or local government agency that is capable of providing professional curatorial services on a long-term basis.

Repository agreement means a formal written agreement between the Authorized Officer and the repository official in which the parties agree on how the repository will provide curatorial services for collections.

Repository official means any officer, employee, or agent officially representing the repository that is providing curatorial services for a collection that is subject to this part.

Secretary means the Secretary of Agriculture with respect to National Forest System lands controlled or administered by the Secretary of Agriculture.

State means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

§ 291.6 Confidentiality of information—general.

(a) Information concerning the nature and specific location of a paleontological resource is exempt from dis-

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closure under the Freedom of Information Act (FOIA) (5 U.S.C. 552), unless the Authorized Officer has made a written determination that disclosure would:

(1) Further the purposes of the Act and this part;

(2) Not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) Be in accordance with other applicable laws.

(b) *Sharing protected information does not constitute a disclosure.* The Authorized Officer may share information concerning the nature and specific location of a paleontological resource with non-Agency personnel for scientific, educational, or resource management purposes. A recipient of such information may be required to sign a confidentiality agreement in which the recipient agrees not to share the information with anyone not authorized to receive the information.

§ 291.7 Public awareness and education.

The Chief of the Forest Service will establish a program to increase public awareness about the significance of paleontological resources on National Forest System lands.

§ 291.8 Area closures.

(a) In order to protect paleontological or other resources or to provide for public safety, the Authorized Officer may restrict access to or close areas to the collection of paleontological resources.

(b) The regulations in this part do not preclude the use of other authorities that provide for area closures.

§ 291.9 Determination of paleontological resources.

(a) All paleontological resources on National Forest System lands will be managed, protected, and preserved in accordance with the regulations in this part unless the Authorized Officer determines that such resources are not paleontological resources in accordance with paragraph (b) of this section.

(b) Using scientific principles and expertise, the Authorized Officer may determine that certain paleontological