

1 (B) whether the State or Indian tribe is lo-
2 cated in a geographical area that is at high risk
3 for livestock predation; or

4 (C) any other factors that the Secretaries
5 determine are appropriate.

6 (e) *ELIGIBLE LAND.*—Activities and losses described in
7 subsection (a) may occur on Federal, State, or private land,
8 or land owned by, or held in trust for the benefit of, an
9 Indian tribe.

10 (f) *FEDERAL COST SHARE.*—The Federal share of the
11 cost of any activity provided assistance made available
12 under this subtitle shall not exceed 50 percent of the total
13 cost of the activity.

14 **SEC. 6203. AUTHORIZATION OF APPROPRIATIONS.**

15 There is authorized to be appropriated to carry out
16 this subtitle \$1,000,000 for fiscal year 2009 and each fiscal
17 year thereafter.

18 **Subtitle D—Paleontological**
19 **Resources Preservation**

20 **SEC. 6301. DEFINITIONS.**

21 In this subtitle:

22 (1) *CASUAL COLLECTING.*—The term “casual col-
23 lecting” means the collecting of a reasonable amount
24 of common invertebrate and plant paleontological re-
25 sources for non-commercial personal use, either by

1 *surface collection or the use of non-powered hand tools*
2 *resulting in only negligible disturbance to the Earth's*
3 *surface and other resources. As used in this para-*
4 *graph, the terms "reasonable amount", "common in-*
5 *vertebrate and plant paleontological resources" and*
6 *"negligible disturbance" shall be determined by the*
7 *Secretary.*

8 (2) *FEDERAL LAND.*—*The term "Federal land"*
9 *means—*

10 (A) *land controlled or administered by the*
11 *Secretary of the Interior, except Indian land; or*

12 (B) *National Forest System land controlled*
13 *or administered by the Secretary of Agriculture.*

14 (3) *INDIAN LAND.*—*The term "Indian Land"*
15 *means land of Indian tribes, or Indian individuals,*
16 *which are either held in trust by the United States or*
17 *subject to a restriction against alienation imposed by*
18 *the United States.*

19 (4) *PALEONTOLOGICAL RESOURCE.*—*The term*
20 *"paleontological resource" means any fossilized re-*
21 *mains, traces, or imprints of organisms, preserved in*
22 *or on the earth's crust, that are of paleontological in-*
23 *terest and that provide information about the history*
24 *of life on earth, except that the term does not in-*
25 *clude—*

1 (A) any materials associated with an ar-
2 chaeological resource (as defined in section 3(1)
3 of the Archaeological Resources Protection Act of
4 1979 (16 U.S.C. 470bb(1)); or

5 (B) any cultural item (as defined in section
6 2 of the Native American Graves Protection and
7 Repatriation Act (25 U.S.C. 3001)).

8 (5) *SECRETARY.*—The term “Secretary” means
9 the Secretary of the Interior with respect to land con-
10 trolled or administered by the Secretary of the Inte-
11 rior or the Secretary of Agriculture with respect to
12 National Forest System land controlled or adminis-
13 tered by the Secretary of Agriculture.

14 (6) *STATE.*—The term “State” means the 50
15 States, the District of Columbia, the Commonwealth
16 of Puerto Rico, and any other territory or possession
17 of the United States.

18 **SEC. 6302. MANAGEMENT.**

19 (a) *IN GENERAL.*—The Secretary shall manage and
20 protect paleontological resources on Federal land using sci-
21 entific principles and expertise. The Secretary shall develop
22 appropriate plans for inventory, monitoring, and the sci-
23 entific and educational use of paleontological resources, in
24 accordance with applicable agency laws, regulations, and
25 policies. These plans shall emphasize interagency coordina-

1 *tion and collaborative efforts where possible with non-Fed-*
2 *eral partners, the scientific community, and the general*
3 *public.*

4 (b) *COORDINATION.*—*To the extent possible, the Sec-*
5 *retary of the Interior and the Secretary of Agriculture shall*
6 *coordinate in the implementation of this subtitle.*

7 **SEC. 6303. PUBLIC AWARENESS AND EDUCATION PROGRAM.**

8 *The Secretary shall establish a program to increase*
9 *public awareness about the significance of paleontological*
10 *resources.*

11 **SEC. 6304. COLLECTION OF PALEONTOLOGICAL RE-**
12 **SOURCES.**

13 (a) *PERMIT REQUIREMENT.*—

14 (1) *IN GENERAL.*—*Except as provided in this*
15 *subtitle, a paleontological resource may not be col-*
16 *lected from Federal land without a permit issued*
17 *under this subtitle by the Secretary.*

18 (2) *CASUAL COLLECTING EXCEPTION.*—*The Sec-*
19 *retary shall allow casual collecting without a permit*
20 *on Federal land controlled or administered by the Bu-*
21 *reau of Land Management, the Bureau of Reclama-*
22 *tion, and the Forest Service, where such collection is*
23 *consistent with the laws governing the management of*
24 *those Federal land and this subtitle.*

1 (3) *PREVIOUS PERMIT EXCEPTION.*—*Nothing in*
2 *this section shall affect a valid permit issued prior to*
3 *the date of enactment of this Act.*

4 (b) *CRITERIA FOR ISSUANCE OF A PERMIT.*—*The Sec-*
5 *retary may issue a permit for the collection of a paleon-*
6 *tological resource pursuant to an application if the Sec-*
7 *retary determines that—*

8 (1) *the applicant is qualified to carry out the*
9 *permitted activity;*

10 (2) *the permitted activity is undertaken for the*
11 *purpose of furthering paleontological knowledge or for*
12 *public education;*

13 (3) *the permitted activity is consistent with any*
14 *management plan applicable to the Federal land con-*
15 *cerned; and*

16 (4) *the proposed methods of collecting will not*
17 *threaten significant natural or cultural resources.*

18 (c) *PERMIT SPECIFICATIONS.*—*A permit for the collec-*
19 *tion of a paleontological resource issued under this section*
20 *shall contain such terms and conditions as the Secretary*
21 *deems necessary to carry out the purposes of this subtitle.*
22 *Every permit shall include requirements that—*

23 (1) *the paleontological resource that is collected*
24 *from Federal land under the permit will remain the*
25 *property of the United States;*

1 (2) *the paleontological resource and copies of as-*
2 *sociated records will be preserved for the public in an*
3 *approved repository, to be made available for sci-*
4 *entific research and public education; and*

5 (3) *specific locality data will not be released by*
6 *the permittee or repository without the written per-*
7 *mission of the Secretary.*

8 (d) *MODIFICATION, SUSPENSION, AND REVOCATION OF*
9 *PERMITS.—*

10 (1) *The Secretary may modify, suspend, or re-*
11 *voke a permit issued under this section—*

12 (A) *for resource, safety, or other manage-*
13 *ment considerations; or*

14 (B) *when there is a violation of term or*
15 *condition of a permit issued pursuant to this*
16 *section.*

17 (2) *The permit shall be revoked if any person*
18 *working under the authority of the permit is con-*
19 *victed under section 6306 or is assessed a civil pen-*
20 *alty under section 6307.*

21 (e) *AREA CLOSURES.—In order to protect paleontolog-*
22 *ical or other resources or to provide for public safety, the*
23 *Secretary may restrict access to or close areas under the*
24 *Secretary's jurisdiction to the collection of paleontological*
25 *resources.*

1 **SEC. 6305. CURATION OF RESOURCES.**

2 *Any paleontological resource, and any data and*
3 *records associated with the resource, collected under a per-*
4 *mit, shall be deposited in an approved repository. The Sec-*
5 *retary may enter into agreements with non-Federal reposi-*
6 *tories regarding the curation of these resources, data, and*
7 *records.*

8 **SEC. 6306. PROHIBITED ACTS; CRIMINAL PENALTIES.**

9 *(a) IN GENERAL.—A person may not—*

10 *(1) excavate, remove, damage, or otherwise alter*
11 *or deface or attempt to excavate, remove, damage, or*
12 *otherwise alter or deface any paleontological resources*
13 *located on Federal land unless such activity is con-*
14 *ducted in accordance with this subtitle;*

15 *(2) exchange, transport, export, receive, or offer*
16 *to exchange, transport, export, or receive any paleon-*
17 *tological resource if the person knew or should have*
18 *known such resource to have been excavated or re-*
19 *moved from Federal land in violation of any provi-*
20 *sions, rule, regulation, law, ordinance, or permit in*
21 *effect under Federal law, including this subtitle; or*

22 *(3) sell or purchase or offer to sell or purchase*
23 *any paleontological resource if the person knew or*
24 *should have known such resource to have been exca-*
25 *vated, removed, sold, purchased, exchanged, trans-*
26 *ported, or received from Federal land.*

1 (b) *FALSE LABELING OFFENSES.*—A person may not
2 make or submit any false record, account, or label for, or
3 any false identification of, any paleontological resource ex-
4 cavated or removed from Federal land.

5 (c) *PENALTIES.*—A person who knowingly violates or
6 counsels, procures, solicits, or employs another person to
7 violate subsection (a) or (b) shall, upon conviction, be fined
8 in accordance with title 18, United States Code, or impris-
9 oned not more than 5 years, or both; but if the sum of the
10 commercial and paleontological value of the paleontological
11 resources involved and the cost of restoration and repair
12 of such resources does not exceed \$500, such person shall
13 be fined in accordance with title 18, United States Code,
14 or imprisoned not more than 2 years, or both.

15 (d) *MULTIPLE OFFENSES.*—In the case of a second or
16 subsequent violation by the same person, the amount of the
17 penalty assessed under subsection (c) may be doubled.

18 (e) *GENERAL EXCEPTION.*—Nothing in subsection (a)
19 shall apply to any person with respect to any paleontolog-
20 ical resource which was in the lawful possession of such per-
21 son prior to the date of enactment of this Act.

22 **SEC. 6307. CIVIL PENALTIES.**

23 (a) *IN GENERAL.*—

24 (1) *HEARING.*—A person who violates any prohi-
25 bition contained in an applicable regulation or per-

1 *mit issued under this subtitle may be assessed a pen-*
2 *alty by the Secretary after the person is given notice*
3 *and opportunity for a hearing with respect to the vio-*
4 *lation. Each violation shall be considered a separate*
5 *offense for purposes of this section.*

6 (2) *AMOUNT OF PENALTY.*—*The amount of such*
7 *penalty assessed under paragraph (1) shall be deter-*
8 *mined under regulations promulgated pursuant to*
9 *this subtitle, taking into account the following factors:*

10 (A) *The scientific or fair market value,*
11 *whichever is greater, of the paleontological re-*
12 *source involved, as determined by the Secretary.*

13 (B) *The cost of response, restoration, and*
14 *repair of the resource and the paleontological site*
15 *involved.*

16 (C) *Any other factors considered relevant by*
17 *the Secretary assessing the penalty.*

18 (3) *MULTIPLE OFFENSES.*—*In the case of a sec-*
19 *ond or subsequent violation by the same person, the*
20 *amount of a penalty assessed under paragraph (2)*
21 *may be doubled.*

22 (4) *LIMITATION.*—*The amount of any penalty*
23 *assessed under this subsection for any 1 violation*
24 *shall not exceed an amount equal to double the cost*
25 *of response, restoration, and repair of resources and*

1 *paleontological site damage plus double the scientific*
2 *or fair market value of resources destroyed or not re-*
3 *covered.*

4 **(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF**
5 **UNPAID ASSESSMENTS.—**

6 **(1) JUDICIAL REVIEW.—***Any person against*
7 *whom an order is issued assessing a penalty under*
8 *subsection (a) may file a petition for judicial review*
9 *of the order in the United States District Court for*
10 *the District of Columbia or in the district in which*
11 *the violation is alleged to have occurred within the*
12 *30-day period beginning on the date the order making*
13 *the assessment was issued. Upon notice of such filing,*
14 *the Secretary shall promptly file such a certified copy*
15 *of the record on which the order was issued. The court*
16 *shall hear the action on the record made before the*
17 *Secretary and shall sustain the action if it is sup-*
18 *ported by substantial evidence on the record consid-*
19 *ered as a whole.*

20 **(2) FAILURE TO PAY.—***If any person fails to pay*
21 *a penalty under this section within 30 days—*

22 **(A)** *after the order making assessment has*
23 *become final and the person has not filed a peti-*
24 *tion for judicial review of the order in accord-*
25 *ance with paragraph (1); or*

1 (B) after a court in an action brought in
2 paragraph (1) has entered a final judgment up-
3 holding the assessment of the penalty, the Sec-
4 retary may request the Attorney General to in-
5 stitute a civil action in a district court of the
6 United States for any district in which the per-
7 son if found, resides, or transacts business, to
8 collect the penalty (plus interest at currently
9 prevailing rates from the date of the final order
10 or the date of the final judgment, as the case
11 may be). The district court shall have jurisdic-
12 tion to hear and decide any such action. In such
13 action, the validity, amount, and appropriate-
14 ness of such penalty shall not be subject to re-
15 view. Any person who fails to pay on a timely
16 basis the amount of an assessment of a civil pen-
17 alty as described in the first sentence of this
18 paragraph shall be required to pay, in addition
19 to such amount and interest, attorneys fees and
20 costs for collection proceedings.

21 (c) *HEARINGS.*—Hearings held during proceedings in-
22 stituted under subsection (a) shall be conducted in accord-
23 ance with section 554 of title 5, United States Code.

24 (d) *USE OF RECOVERED AMOUNTS.*—Penalties col-
25 lected under this section shall be available to the Secretary

1 *and without further appropriation may be used only as fol-*
2 *lows:*

3 (1) *To protect, restore, or repair the paleontolog-*
4 *ical resources and sites which were the subject of the*
5 *action, and to protect, monitor, and study the re-*
6 *sources and sites.*

7 (2) *To provide educational materials to the pub-*
8 *lic about paleontological resources and sites.*

9 (3) *To provide for the payment of rewards as*
10 *provided in section 6308.*

11 **SEC. 6308. REWARDS AND FORFEITURE.**

12 (a) *REWARDS.*—*The Secretary may pay from pen-*
13 *alties collected under section 6306 or 6307 or from appro-*
14 *priated funds—*

15 (1) *consistent with amounts established in regu-*
16 *lations by the Secretary; or*

17 (2) *if no such regulation exists, an amount up*
18 *to ½ of the penalties, to any person who furnishes in-*
19 *formation which leads to the finding of a civil viola-*
20 *tion, or the conviction of criminal violation, with re-*
21 *spect to which the penalty was paid. If several per-*
22 *sons provided the information, the amount shall be*
23 *divided among the persons. No officer or employee of*
24 *the United States or of any State or local government*
25 *who furnishes information or renders service in the*

1 *performance of his official duties shall be eligible for*
2 *payment under this subsection.*

3 (b) *FORFEITURE.—All paleontological resources with*
4 *respect to which a violation under section 6306 or 6307 oc-*
5 *curred and which are in the possession of any person, shall*
6 *be subject to civil forfeiture, or upon conviction, to criminal*
7 *forfeiture.*

8 (c) *TRANSFER OF SEIZED RESOURCES.—The Sec-*
9 *retary may transfer administration of seized paleontolog-*
10 *ical resources to Federal or non-Federal educational institu-*
11 *tions to be used for scientific or educational purposes.*

12 **SEC. 6309. CONFIDENTIALITY.**

13 *Information concerning the nature and specific loca-*
14 *tion of a paleontological resource shall be exempt from dis-*
15 *closure under section 552 of title 5, United States Code, and*
16 *any other law unless the Secretary determines that disclo-*
17 *sure would—*

- 18 (1) *further the purposes of this subtitle;*
19 (2) *not create risk of harm to or theft or destruc-*
20 *tion of the resource or the site containing the resource;*
21 *and*
22 (3) *be in accordance with other applicable laws.*

23 **SEC. 6310. REGULATIONS.**

24 *As soon as practical after the date of enactment of this*
25 *Act, the Secretary shall issue such regulations as are appro-*

1 *priate to carry out this subtitle, providing opportunities for*
2 *public notice and comment.*

3 **SEC. 6311. SAVINGS PROVISIONS.**

4 *Nothing in this subtitle shall be construed to—*

5 *(1) invalidate, modify, or impose any additional*
6 *restrictions or permitting requirements on any activi-*
7 *ties permitted at any time under the general mining*
8 *laws, the mineral or geothermal leasing laws, laws*
9 *providing for minerals materials disposal, or laws*
10 *providing for the management or regulation of the ac-*
11 *tivities authorized by the aforementioned laws includ-*
12 *ing but not limited to the Federal Land Policy Man-*
13 *agement Act (43 U.S.C. 1701–1784), Public Law 94–*
14 *429 (commonly known as the “Mining in the Parks*
15 *Act”) (16 U.S.C. 1901 et seq.), the Surface Mining*
16 *Control and Reclamation Act of 1977 (30 U.S.C.*
17 *1201–1358), and the Organic Administration Act (16*
18 *U.S.C. 478, 482, 551);*

19 *(2) invalidate, modify, or impose any additional*
20 *restrictions or permitting requirements on any activi-*
21 *ties permitted at any time under existing laws and*
22 *authorities relating to reclamation and multiple uses*
23 *of Federal land;*

1 (3) apply to, or require a permit for, casual col-
2 lecting of a rock, mineral, or invertebrate or plant
3 fossil that is not protected under this subtitle;

4 (4) affect any land other than Federal land or
5 affect the lawful recovery, collection, or sale of paleon-
6 tological resources from land other than Federal land;

7 (5) alter or diminish the authority of a Federal
8 agency under any other law to provide protection for
9 paleontological resources on Federal land in addition
10 to the protection provided under this subtitle; or

11 (6) create any right, privilege, benefit, or entitle-
12 ment for any person who is not an officer or employee
13 of the United States acting in that capacity. No per-
14 son who is not an officer or employee of the United
15 States acting in that capacity shall have standing to
16 file any civil action in a court of the United States
17 to enforce any provision or amendment made by this
18 subtitle.

19 **SEC. 6312. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated such sums as
21 may be necessary to carry out this subtitle.

22 **Subtitle E—Izembek National**
23 **Wildlife Refuge Land Exchange**

24 **SEC. 6401. DEFINITIONS.**

25 In this subtitle: