

§ 470aaa-2. Public awareness and education program

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

(Pub. L. 111-11, title VI, §6303, Mar. 30, 2009, 123 Stat. 1173.)

§ 470aaa-3. Collection of paleontological resources

(a) Permit requirement

(1) In general

Except as provided in this chapter, a paleontological resource may not be collected from Federal land without a permit issued under this chapter by the Secretary.

(2) Casual collecting exception

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, where such collection is consistent with the laws governing the management of those Federal land¹ and this chapter.

(3) Previous permit exception

Nothing in this section shall affect a valid permit issued prior to March 30, 2009.

(b) Criteria for issuance of a permit

The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

- (1) the applicant is qualified to carry out the permitted activity;
- (2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;
- (3) the permitted activity is consistent with any management plan applicable to the Federal land concerned; and
- (4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) Permit specifications

A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this chapter. Every permit shall include requirements that—

- (1) the paleontological resource that is collected from Federal land under the permit will remain the property of the United States;
- (2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and
- (3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) Modification, suspension, and revocation of permits

- (1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

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

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 470aaa-5 of this title or is assessed a civil penalty under section 470aaa-6 of this title.

(e) Area closures

In order to protect paleontological or other resources or to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

(Pub. L. 111-11, title VI, §6304, Mar. 30, 2009, 123 Stat. 1173.)

§ 470aaa-4. Curation of resources

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

(Pub. L. 111-11, title VI, §6305, Mar. 30, 2009, 123 Stat. 1174.)

§ 470aaa-5. Prohibited acts; criminal penalties

(a) In general

A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal land unless such activity is conducted in accordance with this chapter;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if the person knew or should have known such resource to have been excavated or removed from Federal land in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this chapter; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal land.

(b) False labeling offenses

A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal land.

(c) Penalties

A person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be fined in accordance with title 18 or imprisoned not more than 5 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such re-

¹ So in original. Probably should be "lands".

sources does not exceed \$500, such person shall be fined in accordance with title 18 or imprisoned not more than 2 years, or both.

(d) Multiple offenses

In the case of a second or subsequent violation by the same person, the amount of the penalty assessed under subsection (c) may be doubled.

(e) General exception

Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to March 30, 2009.

(Pub. L. 111-11, title VI, §6306, Mar. 30, 2009, 123 Stat. 1174.)

§ 470aaa-6. Civil penalties

(a) In general

(1) Hearing

A person who violates any prohibition contained in an applicable regulation or permit issued under this chapter may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) Amount of penalty

The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this chapter, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved, as determined by the Secretary.

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

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

(3) Multiple offenses

In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) Limitation

The amount of any penalty assessed under this subsection for any 1 violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) Petition for judicial review; collection of unpaid assessments

(1) Judicial review

Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. Upon notice of such filing, the Secretary shall

promptly file such a certified copy of the record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(2) Failure to pay

If any person fails to pay a penalty under this section within 30 days—

(A) after the order making assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty,¹ the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person if² found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.

(c) Hearings

Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5.

(d) Use of recovered amounts

Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, and to protect, monitor, and study the resources and sites.

(2) To provide educational materials to the public about paleontological resources and sites.

(3) To provide for the payment of rewards as provided in section 470aaa-7 of this title.

(Pub. L. 111-11, title VI, §6307, Mar. 30, 2009, 123 Stat. 1175.)

§ 470aaa-7. Rewards and forfeiture

(a) Rewards

The Secretary may pay from penalties collected under section 470aaa-5 or 470aaa-6 of this title or from appropriated funds—

(1) consistent with amounts established in regulations by the Secretary; or

(2) if no such regulation exists, an amount up to ½ of the penalties, to any person who

¹So in original. Following provisions probably should be set flush with par. (2).

²So in original. Probably should be "is".