

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,<sup>1</sup> 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 if<sup>2</sup> 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

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

<sup>2</sup>So in original. Probably should be "is".