§ 71-1307. Sanctions.

1. Administrative sanctions. Any person who violates any provision of article 23 of this chapter or commits any offense described in section 71-1305 of this title shall be liable to the people of the state for a civil penalty not to exceed eight thousand dollars and an additional penalty of two thousand dollars for each day during which such violation continues, to be assessed by the commissioner after a hearing or opportunity to be heard. The commissioner, acting by the attorney general, may bring suit for collection of such assessed civil penalty in any court of competent jurisdiction. Such civil penalty may be released or compromised by the commissioner before the matter has been referred to the attorney general; and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the commissioner. In addition, the commissioner shall have the power, following a hearing conducted pursuant to rules and regulations adopted by the department, to direct the violator to cease the violation and reclaim and repair the affected site to a condition acceptable to the commissioner, to the extent possible within a reasonable time and under the direction and supervision of the commissioner. Any such order of the commissioner shall be enforceable in any action brought by the commissioner in any court of competent jurisdiction. Any civil penalty or order issued by the commissioner under this subdivision shall be reviewable in a proceeding under article seventy-eight of the civil practice law and rules.

2. Civil sanctions. In lieu of seeking administrative sanctions, the commissioner may refer any violation described in subdivision 1 of this section to the attorney general who shall be empowered to bring a civil suit to seek any of the sanctions described in subdivision 1 of this section. Any such sanctions imposed may be released or compromised or the action may be settled and discontinued by the attorney general with the consent of the commissioner.

3. Criminal sanctions. Any person who, having any of the culpable

mental states defined in sections 15.05 and 20.20 of the penal law, violates any provision of article 23 of this chapter or commits any offense described in section 71-1305 of this title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. If the conviction is for a subsequent offense committed after a first conviction of such person under this subdivision, punishment shall be by a fine not to exceed eight thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment.

4. This section shall not affect the rights of any other person seeking damages arising out of a violation.

5. All fines collected pursuant to this section shall be paid into the environmental protection fund established pursuant to section ninety-two-s of the state finance law.