§ 71-2703. Violations of title 3 or 7 of article 27 of this chapter.

1. Civil and administrative sanctions. a. Any person who violates any of the provisions of, or who fails to perform any duty imposed by title 3 or 7 of article 27 of this chapter or any rule or regulation promulgated pursuant thereto, or any term or condition of any certificate or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be liable for a civil penalty not to exceed seven thousand five hundred dollars for each such violation and an additional penalty of not more than one thousand five hundred dollars for each day during which such violation continues, to be assessed by the commissioner after an opportunity to be heard pursuant to the provisions of section 71-1709 of this article, or by the court in any action or proceeding pursuant to section 71-2727 of this title, and, in addition thereto, such person may by similar process be enjoined from continuing such violation and any permit or certificate issued to such person may be revoked or suspended or a pending renewal application denied.

b. i. Any person who violates any of the provisions of, or who fails to perform any duty imposed by, title 3 or 7 of article 27 of this chapter, or any rule or regulation promulgated pursuant thereto, or any term or condition of any certificate or permit issued pursuant thereto and thereby causes the release of solid waste into the environment, shall be liable for a civil penalty not to exceed eleven thousand two hundred fifty dollars for each such violation and an additional penalty of not more than eleven thousand two hundred fifty dollars for each day during which such violation continues, to be assessed by the commissioner after an opportunity to be heard pursuant to the provisions of section 71-1709 of this article, or by the court in any action or proceeding pursuant to section 71-2727 of this title, and, in addition thereto, such person may by similar process be enjoined from continuing such violation and any permit or certificate issued to such person may be revoked or suspended or a pending renewal application denied.

ii. Any person who violates any of the provisions of, or who fails to perform any duty imposed by, title 3 or 7 of article 27 of this chapter,

or any rule or regulation promulgated pursuant thereto, or any term or condition of any certificate or permit issued pursuant thereto and thereby causes the release of more than ten cubic yards of solid waste into the environment, shall be liable for a civil penalty not to exceed twenty-two thousand five hundred dollars for each such violation and an additional penalty of not more than twenty-two thousand five hundred dollars for each day during which such violation continues, to be assessed by the commissioner after an opportunity to be heard pursuant to the provisions of section 71-1709 of this article, or by the court in any action or proceeding pursuant to section 71-2727 of this title, and, in addition thereto, such person may by similar process be enjoined from continuing such violation and any permit or certificate issued to such person may be revoked or suspended or a pending renewal application denied.

c. The court in any action or proceeding pursuant to section 71-2727 of this chapter may exercise all powers exercisable by the commissioner.

2. Criminal sanctions. a. Any person who, having any of the culpable mental states defined in section 15.05 of the penal law, shall violate any of the provisions of or who fails to perform any duty imposed by title 3 or 7 of article 27 of this chapter, or any rules and regulations promulgated pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine of not less than one thousand five hundred dollars nor more than fifteen thousand dollars per day of violation or by imprisonment for not more than fifteen days or by both such fine and imprisonment.

b. i. Any person who shall violate paragraph a of this subdivision and thereby causes or attempts to cause the release of more than ten cubic yards of solid waste into the environment shall be guilty of a class B misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than three thousand seven hundred fifty dollars per day nor more than twenty-two thousand five hundred dollars per day of violation, or by imprisonment for a term in accordance with the penal law, or by both such fine and imprisonment.

ii. Any person who shall violate paragraph a of this subdivision and thereby causes or attempts to cause the release of more than ten cubic yards of solid waste into the environment, after having been convicted of a violation of this subdivision within the preceding five years, shall be guilty of a class A misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than three thousand seven hundred fifty dollars per day nor more than thirty-seven thousand five hundred dollars per day of violation, or by imprisonment for a term in accordance with the penal law, or by both such fine and imprisonment.

c. i. Any person who shall violate paragraph a of this subdivision and thereby causes or attempts to cause the release of more than seventy cubic yards of solid waste into the environment shall be guilty of a class A misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than three thousand seven hundred fifty dollars per day nor more than thirty-seven thousand five hundred dollars per day of violation, or by imprisonment for a term in accordance with the penal law, or by both such fine and imprisonment.

ii. Any person who shall violate paragraph a of this subdivision and thereby causes or attempts to cause the release of more than seventy cubic yards of solid waste into the environment, after having been convicted of a violation of this subdivision within the preceding five years, shall be guilty of a class E felony and, upon conviction thereof, shall be punished by a fine of not less than seven thousand five hundred dollars per day nor more than seventy-five thousand dollars per day of violation, or by imprisonment for a term in accordance with the penal law, or by both such fine and imprisonment.

3. Additional sanctions. Any person who violates any of the provisions of, or who fails to perform any duty imposed by title 7 of article 27, with regard to the construction and operation of facilities for the disposal of construction and demolition debris or any rule or regulation promulgated pursuant thereto, or any term or condition of any certificate or permit issued pursuant thereto or any final determination or order of the commissioner made pursuant to this title shall be liable

for a civil penalty not to exceed fifteen thousand dollars and each day of such deposition shall constitute a separate violation and said civil penalty is in addition to any other fines or penalties which may be applied pursuant to this title.

4. Definition. As used in this section, the following term shall have the following meaning "release" means any pumping, pouring, emitting, emptying, discharge, deposit, injection, dumping, spilling or placing of a substance.

5. Penalty assessment criteria. In determining the amount of any fine, penalty or sentence imposed pursuant to this section, the commissioner or the court shall take into consideration any evidence introduced by a party regarding the economic impact of a penalty on a business, the compliance history of a violator, good faith efforts of a violator to comply, any economic benefit obtained from noncompliance, the amount of risk or damage to public health or the environment caused by a violator, whether the violation was procedural in nature, or such other factors as justice may require.