§ 72-0201. Fees and penalties.

1. a. Notwithstanding any general or special law to the contrary, all persons who require a permit or approval pursuant to a state environmental regulatory program, or who are subject to regulation under a state environmental regulatory program shall submit a fee as authorized under this article annually to the department, on such forms and at such times as specified by the department.

b. Notwithstanding any general or special law to the contrary, one-half of all monies collected by the department pursuant to section 72-0502 of this article shall be deposited in the hazardous waste remedial fund, created pursuant to section ninety-seven-b of the state finance law.

c. Notwithstanding any general or special law to the contrary, all monies collected by the department pursuant to subdivision twelve of this section and section 72-0303 of this article shall be deposited in the operating permit program account of the clean air fund created pursuant to section ninety-seven-oo of the state finance law.

d. Notwithstanding any general or special law to the contrary, all monies collected by the department pursuant to title ten of this article shall be deposited in the mined land reclamation program account created pursuant to section 72-1011 of this article.

e. Notwithstanding any general or special law to the contrary, all monies collected by the department pursuant to section 72-0402 of this article shall be deposited as follows: (i) fifteen percent in the environmental protection fund established by section ninety-two-s of the state finance law not to exceed two million one hundred thousand dollars; and (ii) seventy-one percent in the industry fee transfer account of the hazardous waste remedial fund established by subdivision one of section ninety-seven-b of the state finance law.

2. All persons subject to regulation under a state environmental regulatory program including those persons holding existing permits,

certificates or approvals under such programs shall be liable for fees authorized by this article on and after April first, nineteen hundred eighty-three.

3. Liability for fees authorized by this chapter for persons receiving new permits, certificates or approvals shall equal the annual fee established pursuant to this title and prorated from the date of issuance.

4. Payment of fees shall be due within thirty days of billing by the department.

5. If the amount of the fee is not paid within forty-five days of the last date prescribed under subdivision four of this section, a penalty shall be imposed on such deficiency. The amount of such penalty shall not exceed five percent of such deficiency per month and the total penalty shall not exceed twenty-five percent of the deficiency.

Notice of the determination of a penalty, and notice of the right to appeal such determination shall be given to the person liable for the payment of the fee and any penalty due. The penalty as determined pursuant to this subdivision shall be finally and irrevocably assessed unless a hearing is requested by certified mail to the commissioner within thirty days after receiving notice of the determination of a penalty, or unless the commissioner on his own motion shall redetermine such penalty. After such hearing the commissioner shall give notice of final determination to the person against whom the fee and penalty is assessed. No such penalty as defined in this subdivision shall be assessed until after the expiration of the period in which a hearing may be requested, or after the issuance of a final determination following a hearing, whichever comes later.

6. In addition to any penalty that may be assessed pursuant to subdivision five of this section, there shall be collected interest upon the unpaid amount at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, minus four percentage points. Such interest shall accrue thirty

days from the date prescribed for fee payment until payment is actually made to the department.

7. In the event that a person fails to pay any fee as finally determined, such determination to be final when all administrative and judicial appeals thereof, if any, have been completed, the department may suspend, until the fee is paid, the permit, certificate or approval for the activity which is subject to that fee.

8. The commissioner shall promulgate regulations necessary to effectuate the purposes of this article. Such regulations may also include provisions regarding hearings to resolve disputed fee and penalty determinations.

9. a. In the event a penalty or interest is collected pursuant to subdivision five or six of this section for fees due under section 72-0402, or section 72-0502 of this article, one-half of the penalty or interest shall be deposited by the department in the industry fee transfer account of the hazardous waste remedial fund.

b. In the event a penalty or interest is collected pursuant to subdivision five or six of this section for fees due under section 72-0403 of this article, such penalty or interest shall be deposited in the industry fee transfer account of the hazardous waste remedial fund established by subdivision one of section ninety-seven-b of the state finance law.

10. No portion of the fees collected pursuant to this article shall be used for any purpose if such use, under federal law, would preclude the collection of such a fee.

11. a. All fees collected pursuant to this article shall be paid into the environmental conservation special revenue fund to the credit of the environmental regulatory account, unless herein provided otherwise.

b. Moneys of such account shall include interest earnings on any account balances and shall be available for appropriation and allocation

for the purposes of carrying out the provisions of this chapter.

c. The moneys of the account shall be paid out on the audit and warrant of the comptroller on vouchers certified or approved by the commissioner or his duly designated representative.

d. Notwithstanding the provisions of any general or special law, no moneys shall be available from the account until a certificate of allocation and a schedule of amounts to be available therefor shall have been issued by the director of the budget, and a copy of such certificate filed with the comptroller. Such certificate may be amended from time to time by the director of the budget and a copy of each such amendment shall be filed with the comptroller.

e. Any reference to the environmental enforcement account in any special or general law shall be deemed to be a reference to the environmental regulatory account.

12. Notwithstanding any other provision of this section, any person who fails to pay fees required pursuant to section 72-0303 of this article shall pay a penalty of fifty per centum of the unpaid fee amount, plus interest on the unpaid fee amount computed in accordance with section 6621(a)(2) of the United States internal revenue code of 1986 (Public Law 99-514, 26 U.S.C. section 1 et seq.) from the date the fee was required to be paid.