§ 464. Costs and penalties. 1. If the commissioner directs the storage, destruction or other disposition of explosives pursuant to the provisions of section four hundred fifty-nine or four hundred sixty of this article, the commissioner may issue an order which shall set forth the costs of such storage, transportation, handling, destruction or other disposition and assess such costs against the owner of such explosives, which shall be in addition to any other penalties imposed.

2. (a) If the commissioner determines that any person has violated any provision of this article, section four hundred eighty-two of the general business law relating to blasters and pyrotechnicians, or any rule or regulation promulgated thereunder, the commissioner may issue an order which shall describe the nature of the violation and assess such person a civil penalty of up to ten thousand dollars per violation per day until the violation is corrected. The penalty authorized pursuant to this paragraph shall be paid to the commissioner for deposit in the treasury of the state. In assessing the amount of the penalty, the commissioner shall give due consideration to the size of the person's business, the good faith effort of the person, the gravity of the violation, and the history of previous violations.

(b) Whenever the commissioner issues an order under this section against a person, the commissioner shall serve notice of the order by registered mail upon the person at his or her last known address. Within five days of service of the order, the person may make written demand upon the commissioner for a hearing whereupon the commissioner shall give such person written notice of the time and place of the hearing to be held not less than ten days thereafter.

(c) Upon the entry of an order issued following a hearing under this section, any party aggrieved by an order issued under this subdivision or subdivision one of this section may commence a proceeding for review thereof pursuant to article seventy-eight of the civil practice law and rules within thirty days from the notice of the filing of the said order in the office of the commissioner. Said proceeding shall be commenced directly in the Appellate Division of the Supreme Court.

(d) Provided that no proceeding for judicial review as provided for in this section shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county

clerk of the county where the person resides or has a place of business, the order of the commissioner, containing the amount of the civil penalty. The filing of such order or decision shall have the full force and effect of a judgment duly docketed in the office of such clerk, the order or decision may be enforced by and in the name of the commissioner in the same manner, and with like effect, as that prescribed by the civil practice law and rules for the enforcement of a money judgment.

(e) A civil penalty provided for in this subdivision shall be in addition to and may be imposed concurrently with any other penalty or remedy provided for in this article.

3. Any person violating any provision of this article, or any rule or regulation made hereunder, shall be guilty of a class E felony; provided, however, that any person who possesses an explosive without being duly licensed or otherwise authorized to do so under the provisions of this article shall be guilty of a class D felony. Whenever, as a result of a plea bargaining agreement the charge is reduced to a lesser offense, such offense may, in addition to any term of imprisonment prescribed by such offense, be punishable by a fine not to exceed twenty-five hundred dollars.