

8-1416. Penalties.

(b) Criminal action; injunctive relief; each day separate offense. -- Any person who violates any of the provisions of, or who fails to perform any duty imposed by this subtitle, or any regulation or order issued under it, or the provisions of any permit of the [Administration] DEPARTMENT OF HEALTH AND MENTAL HYGIENE made pursuant to this subtitle is guilty of a misdemeanor, and upon conviction, is subject to a fine not exceeding \$25,000 or by imprisonment not exceeding one year, or both, and, in addition, may be enjoined from continuing the violation. If the conviction is for a violation committed after a first conviction of the person under this subsection, punishment shall be by a fine of not more than \$50,000 per day of violation or by imprisonment not exceeding two years or both, and in addition, the person may be enjoined from continuing the violation. Each day upon which violation occurs constitutes a separate offense.

(d) Secretary of [Natural Resources] HEALTH AND MENTAL HYGIENE may assess civil penalties. -- In addition to any other remedies available at law or in equity, a civil penalty may be assessed for violation of any provisions of this subtitle, or rules, regulations, orders or permits issued pursuant thereto. The penalty may be assessed by the Secretary of [Natural Resources] HEALTH AND MENTAL HYGIENE or a hearing officer designated in writing by the Secretary, after a hearing at which it is determined that a violation exists. The civil penalty assessed shall be \$500 for each day of violation, not exceeding a total sum of \$10,000; consideration shall be given to the willfulness of the violation; to the damage or injury to the waters of the State or the impairment of its uses; to the cost of clean-up; to the nature and degree of injury to or interference with general welfare, health, and property; to the suitability of the waste source to its geographic location, including priority of location; to the available technology and economic reasonableness of controlling, reducing, or eliminating the waste; and other relevant factors. It is payable to the State and collectible in any manner provided at law for the collection of debts. If any person liable to pay the penalty neglects or refuses to pay it after demand, the amount, together with interest and any costs that may accrue, shall be a lien in favor of the State upon the property, both real and personal, of the person and shall be recorded in the clerk of court's office for the political subdivision in which the property is located. The moneys shall be placed in a special fund to be used for monitoring and surveillance by the [administration] DEPARTMENT OF HEALTH AND MENTAL HYGIENE to be used to assure and maintain an adequate record of any discharge to the waters of the State.
