THE BILL BLACKWOOD
LAW ENFORCEMENT MANAGEMENT INSTITUTE OF TEXAS

# *CRIMINAL ENVIRONMENTAL LAW ENFORCEMENT: A Guide for Local Governments*

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**by**
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## ABSTRACT

The law enforcement community has congressional and legislative authority to enforce criminal environmental laws. This paper examines the practices of federal, state, and local governments in imposing criminal sanctions against environmental offenders. The text and appendix provide examples of specific environmental violations, and include a matrix of Texas' environmental laws, penalties, and punishments. An eight-step process for implementing local criminal enforcement programs, as well as recommendations for securing funding, education, and training are included.

## INTRODUCTION

After decades of dealing with environmental offenses through administrative penalties, federal and state governments now realize that many in the industrial community regard such fines and penalties as simply another cost of doing business. With this attitude, many industries continue to violate environmental laws and regulations, adopting the policy of *lump-sum-as-you-dump-some*. During these years, environmental enforcement relied on administrative inspections as vehicles for imposing civil or administrative penalties. In 1991, Texas recognized the impact of criminal environmental enforcement in other states and created the Texas Environmental Enforcement Task Force. The Task Force is comprised of several federal and state regulatory and law enforcement agencies including: Texas Natural Resource Conservation Commission, Texas Attorney General's Office, Texas Department of Parks and Wildlife, United States Environmental Protection Agency, Federal Bureau of Investigations, United States Attorney's Office, and other state and federal agencies. The Task Force was specifically designed to coordinate efforts between governments charged with enforcing environmental laws (Richards, 1991). Historically, the Task Force facilitated criminal prosecution of environmental offenders in Texas, and sent a message of a concerted effort to stop the widespread disregard for the law and the environment.

The purpose of this paper is to introduce the local law enforcement community to the criminal laws enacted to punish environmental offenders. This paper also provides guidance on implementing an environmental crimes unit for municipal and county law enforcement agencies.

Recommendations for the development of policies and procedures, funding mechanisms, and strategies for successful investigation and prosecution of environmental offenders are presented in the text of the paper and in the appendix.

This research is important to law enforcement agencies in Texas for several reasons: (1) more responsibility for environmental enforcement is being passed on to local governments due to re-distribution of available resources at the federal and state level; (2) law officers must become knowledgeable about the availability and intent of environmental laws in order to enforce the laws; (3) successful investigation and prosecution depends largely upon the ability of local government to respond to these new challenges; and (4) environmental enforcement will be strengthened only by the formation of new partnership at all levels of government.

## HISTORICAL, LEGAL, or THEORETICAL CONTEXT

In an Ohio survey conducted in 1984, 60,000 citizens ranked environmental crime as more serious than attempted murder, bank robbery, and heroin smuggling (Celebrezze, 1990). These survey results signal public outrage at those who wantonly squander the finite resources of this planet. *"Those who intentionally despoil your air, earth, or water are as criminal as those who steal your money. They should be treated as such"* (Ballard and Lynch, 1995). Perhaps this commentary will enable the local officer to make the connection between the word "environmental" and the word "crime." Until recently, these two words were mutually exclusive.

Fueled by the environmental movement of the 1970s, the public outrage over environmental degradation found its way onto the national political agenda, which ultimately brought about change in national environmental policy. This change led to more stringent environmental legislation giving the law enforcement community the necessary tools and the opportunity to minimize this threat to public safety and to prosecute environmental offenders.

An *environmental crime* is defined as *an act committed or omitted in violation of a criminal statute related to environmental damage or regulation*. The first major piece of environmental legislation was the federal Resource Conservation and Recovery Act (RCRA) of 1976, as amended by the Hazardous and Solid Waste Act (HSWA) in 1984. The purpose of RCRA is to regulate the management and disposal of hazardous materials and hazardous waste which is generated, treated, stored, disposed of, or distributed (42 USC §6901, et seq). Subtitle C of the HSWA regulates hazardous waste management from "cradle-to-grave," that is, tracking the waste from the point of creation to the point of disposal (42 USC §6902). RCRA requires that any person who engages in the generation, transportation, processing, storage, or disposal of hazardous waste must first obtain a permit from and register with the U.S. Environmental Protection Agency, and the designated State. The Texas Natural Resource Conservation Commission is the designated Texas agency charged with implementing and enforcing environmental laws such as RCRA. To satisfy the requirements of RCRA, Texas enacted the Solid Waste Disposal Act (SWDA), a sister to RCRA; the Texas Health and Safety Code; and the Texas Water Code. These Acts provide a broad forum on which local level enforcement can be implemented.

It is important for the local officer to understand that any dumping in any place other than a permitted disposal facility or landfill constitutes illegal dumping. A descriptive matrix of Texas laws relating to hazardous waste, and water and air pollution is attached to this paper in the *Appendix*.

The following examples of specific environmental violations will assist the officer in developing an understanding of the necessity and applicability of these environmental laws:

***Littering:*** Ranges from misdemeanor to felony dumping and should be a high priority for local level enforcement because of the negative effects it can have on the habitat and the potential for loss of available lands for public use. This category includes the illegal dumping of waste tires. The illegal disposal of solid waste such as batteries and other materials often release harmful chemicals, including lead, acids, and oils into groundwater and soil. The illegal dumping of mercury and other heavy metals contaminate the water and organisms throughout the food chain, and poses a serious threat to human health (Hopkins, 1994).

***Hazardous waste:*** The very nature of this waste can have far-reaching effects in terms of illegal disposal. These materials can show up in the soil, in plant materials, and in living organisms. The Texas Environmental Enforcement Task Force has investigated several sites where drums containing hazardous waste were buried.

***Sewage/septage:*** When illegally disposed of, it causes deterioration of ground and surface water, and increases bacteria and eutrophication, as well as reduces oxygen levels. This illegal activity is considered to pose one of the most serious threats to human health.

***Oil and fuel spills***: These degrade water quality, kill aquatic organisms and fish, and have long-

term negative effects on the ecosystem. Oil settles to the bottom, coats bedding areas, and releases toxins into the affected water systems for years (Hopkins, 1994).

***Open burning:*** The illegal burning of materials such as tires, shingles, and insulated wire releases toxic chemicals into the air, soil, and water. The release of pollutants such as heavy metals, benzene, arsenic, and asbestos contribute to acid rain and affects ecosystems.

**REVIEW of LITERATURE or PRACTICE**

In recent years, criminal prosecution of environmental offenders has been a priority for the U.S. Environmental Protection Agency. Between fiscal year 1983 and July 1, 1994, the Department of Justices' Environmental Crimes Division indicted 1,260 defendants. Of those 1,260 indicted, 359 were corporations, and the remaining 901 were individuals. The indictments resulted in 943 guilty pleas or convictions, 298 involved corporations, and the remaining 645 involved individuals. Between 1982 and the end of 1990, prison sentences totalling 181 years were given to individuals, and 643 years of probation were imposed for committing environmental crimes (U.S. EPA, 1991). The Department of Justice and the EPA encourage the imposition of criminal sanctions at the state government level in appropriate instances.

In a broadcast of the *Tonight Show*, Jay Leno, quipped: *"the Pope landed in New Jersey today, and when he got off the plane he kissed the ground and had to get a tetanus shot"* (Leno, 1995). Is this an exaggeration of the ground pollution problem associated with the state of New Jersey? Possibly, but Leno's remarks were validated by Vince Matulewich, a supervisory investigator with the New Jersey State Attorney's Environmental Crimes Bureau, when during our interview,

he stated: *"New Jersey has a legacy of buried material"* (Matulewich, 1995).

New Jersey implemented its criminal enforcement program in 1980, after environmental laws were codified in the New Jersey penal code. Realizing that the state had to gain control of the wholesale dumping of hazardous waste, New Jersey implemented the first and quite possibly the most aggressive criminal enforcement program in the United States. Staffed with 19 full-time investigators, 4 supervisors, 9 attorneys, and a support staff, the New Jersey program boasts of the following 1994 statistics: Conducted 64 investigations, and closed 66 files. Of the cases investigated, 4 indictments were returned, and 16 defendants pled guilty or were convicted of felony offenses. Seventeen defendants were sentenced to jail terms totalling 18 years and 180 days. The program recovered more than $51,000.00 in restitution for clean-up costs. Additionally, defendants were ordered to perform more than 650 hours in community service. The New Jersey program is also respected for its ability to interface and develop partnerships with local governments. In 1994, the Environmental Crimes Bureau also obtained 3 county indictments involving 8 defendants. The indictments resulted in guilty pleas for 6 of the defendants. New Jersey's commitment to criminal environmental enforcement is further demonstrated by the $1.5 million dollars allocated to the Environmental Crimes Bureau for fiscal year 1994 (Matulewich, 1995).

A decade after the New Jersey program began, the state of Texas began its *"Don't Mess With Texas"* campaign that strongly suggested voluntary compliance with Texas' environmental laws. This campaign was higly effective in reducing roadside litter. However, the following actions

by the Texas Environmental Enforcement Task Force offered a more visible deterrent: The Task Force executed its first criminal search warrant on May 18, 1992. At the end of fiscal year 1995, the Task Force had executed 30 search warrants, serving some of them at multiple sites owned by the same company. Since its creation in 1991, the Task Force has obtained 72 felony convictions and 13 misdemeanor convictions. The convictions involved 22 individuals and 8 corporations. Sentences included home detention, probation, prison terms, hundreds of hours in community service, monetary penalties, and restitution of approximately $125,000, bilingual videotaped warnings to alert non-English speakers of the dangers of committing environmental crimes, published letters of apology to the community and competitors, and clean-up costs exceeding $250,000 (Ballard and Lynch, 1995). The Texas Natural Resource Conservation Commission has administrative oversight for the Task Force, and supports the criminal program with a budget of more than $675,000 for fiscal year 1996 (Burnett, 1995). The Task Force receives additional resources from the other member agencies.

In 1991, the Texas Solid Waste Disposal Act authorized support for the development of criminal environmental enforcement programs for cities and counties. In early 1993, local enforcement programs were implemented in 23 cities and counties in Texas. Each of the programs received financial assistance through matching grants which were administered by the Municipal Solid Waste Division of the Texas Natural Resource Conservation Commission. The 74th Legislature transferred the grant administration and local assistance functions to the area Councils of Government, another example of passing enforcement authority and responsibility on to local governments.

The following discussion highlights the environmental enforcement programs in San Antonio and Houston: The City of San Antonio's Code Compliance Department enforces Texas environmental statutes and local ordinances relating to municipal solid waste. Known as the *Litter Abatement Unit,* the five officers assigned are committed to protecting the environment of this *All America City*. During the first quarter of fiscal year 1995, the Unit issued 87 written warnings; 14 Class C Misdemeanor citations which carry fines ranging from $100 to $2000; and obtained voluntary compliance in 184 instances where the responsible party voluntarily removed the litter and provided the Unit with proof of proper disposal from a certified landfill. The presence of the Unit and its patrol efforts have decreased the usage and creation of illegal landfills (Davilla, 1995). The Unit's operating budget averages $49,000 per quarter.

The City of Houston and the Harris County District Attorney's Office are partners in the *"Rat On A Rat"* (ROAR) program. Efforts of the ROAR program have resulted in numerous felony indictments and convictions for individuals and companies engaged in the illegal transportation and disposal of hazardous and toxic waste.

The majority of the criminal environmental enforcement programs in Texas employ sworn police officers or certified peace officers. These include constables, sheriffs, police, firefighters, and officers with special police commissions issued by the Texas Commission on Law Enforcement Officers Standards and Education.

## RELEVANT ISSUES

Another survey suggests that more than 70 percent of the American public favors the use of jail terms "when companies are found guilty of deliberately violating pollution laws" (Hedman, 1991). Perhaps it is this public mandate that helps to encourage the implementation of criminal environmental enforcement programs throughout the country. The following 8-Step implementation process may guide an agency in creating a program, or provide some guidance for developing continuous improvement procedures for an existing program:

**Step 1:** ***Management Support***

A successful Criminal Enforcement Program requires a commitment from management. *If management doesn't buy it, you can't fly it.* Involve management in every phase of the implementation process. It is management's responsibility to provide the "Supporting Structure" to help officers implement a successful program.

**Step 2:** ***Select Enforcement Team Members***

Request volunteers from each department of the organization. This concept of *inclusion* gets everyone in the organization involved in and responsible for Criminal Enforcement. Other important benefits are the acceptance of this change because of peer involvement; and management understands that these recommendations are not a single individual or special interest project, but a project which will benefit the entire organization (Voorhis, 1994).

**Step 3:** ***Select the Team Leader - "The Champion"***

This selection should be made after the Team has had a chance to get to know each other. The "champion" should be that individual who takes the task to heart. The "champion" can probably best communicate the Program's mission outside of the organization.

**Step 4:** ***Educate Everyone in the Organization***

After the Team has formulated the proposed Program goals, this information must be communicated to the entire organization. This communication should help facilitate a *shared vision.*

**Step 5:** ***Brainstorm Enforcement Ideas***

The brainstorming meetings should be held in individual departments and by the Enforcement Team. Management must provide a safe environment for officers to offer ideas freely. The local library is a potential source for generally accepted and effective brainstorming techniques (Voorhis, 1994).

**Step 6:** ***Evaluate the Ideas***

Give priority to ideas that increase the level of voluntary compliance, then explore those ideas that require a greater investment of the organization's resources. The concept of cost-benefit analysis may be difficult to apply here since no formula exists to accurately determine the value of human health and environmental quality.

**Step 7:** ***Implementation***

Implement the projects as determined by the selection criteria developed by the Enforcement Team. After the Program has been implemented, measure the results, then measure them again. Often the second measurement gives more refined results and provides the opportunity to "tweak" the process for even better results.

**Step 8:** ***Continue the Process***

The criminal environmental enforcement programs of the 1990s will be challenged by the same quality issues involved in programs of the 1980s. The concepts of quality relating to "zero

defects" and "continuous improvement" should remain intact. For the local officer, the goal becomes "zero tolerance" via "Continue the Process."

The Texas Penal Code provides an opportunity for the local officer to reach beyond the specific environmental statutes when investigating environmental offenses. The reporting of activities is required under most environmental statutes. Submitting false information or tampering with governmental records, or securing the execution of a document by fraud or deception are criminal acts defined in the Texas Penal Code. These particular offenses are often committed during the commission of environmental offenses in an attempt to cover up illegal activity or to deceive the government or individuals. Use of the penal code in these instances facilitate creative prosecution and adds a new dimension to criminal environmental enforcement.

Program funding, training and education are major considerations for successful programs. As stated earlier, matching grants may be available from area Councils of Governments, but applicants should be prepared to achieve self-sufficiency within three years, since grants expire after this time period. Training opportunities are provided through several organizations including the Texas Natural Resource Conservation Commission, Special Investigations Unit; the Southern Environmental Enforcement Network; and the U.S. Environmental Protection Agency.

## CONCLUSION/RECOMMENDATIONS

More than ever, the law enforcement community has become empowered to enforce criminal environmental laws. Congress and the Legislature have granted legal authority through enactment of numerous criminal environmental statutes. Law officers in Texas have been offered a unique opportunity and support for local level enforcement through assistance with funding, education, and training. With this opportunity comes great responsibility. Local law enforcement officers must accept the responsibility and the challenge of policing the entire community, including the citizens *and* their environment.

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# APPENDIX

## TEXAS ENVIRONMENTAL LAWS

WILLIAM BALLARD[1]

The following pages provide examples of specific environmental violations and include a matrix of Texas' environmental laws, penalties, and punishments.

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[1] William Ballard is a senior attorney in the Litigation Support Division of the Texas Natural Resource Conservation Commission. Previously he was director of the Environmental Enforcement Division of the Travis County Attorney's Office and staff attorney at the Texas Water Commission. He received his B.S. and M.B.A. from Texas A & M University and his J.D. from South Texas College of Law.

STATE ENVIRONMENTAL CRIMINAL ENFORCEMENT STATUTES

TEXAS

HAZARDOUS WASTE

| Prohibited Act | Level of Violation | Maximum Imprisonment | Maximum Fine Individual | Maximum Fine Corporation | Subsequent Violation |
|---|---|---|---|---|---|
| SECTION 361.221<br><br>Knowingly:<br><br>Transports or causes to be transported to any location without permit.<br><br>Stores, processes, or disposes or causes to be stored, processed, or disposed, without permit or in knowing violation of any material condition or requirement of permit or interim status rule or standard. | | 5 years | $50,000/day (minimum $100/day) | $50,000/day (minimum $100/day) | 10 years; $100,000/day (minimum $200/day) |
| Omits or causes to be omitted material information or makes or causes to be made any false material statement or representation in any document required.<br><br>Generates, transports, stores, processes, or disposes or otherwise handles or causes to be generated, transported, stored, processed, disposed or otherwise handled, and knowingly destroys, alters, conceals, or does not file, or causes to be destroyed, altered, concealed, or not filed, any document required.<br><br>Transports without manifest, or causes to be transported without manifest. | | 2 years | $50,000/day (minimum $100/day) | $50,000/day (minimum $100/day) | 4 years; $100,000/day (minimum $200/day) |
| SECTION 361.2215 (Hazardous Releases)<br><br>Intentionally tampers with, modifies, disables or fails to use required pollution control or monitoring devices, systems, methods, or practices, unless in compliance with this chapter, or order, or rule, or permit.<br><br>Releases, causes, or permits a release that causes or threatens to cause pollution unless in compliance with all permits, order, rule.<br><br>Fails to notify or report as required by chapter, order, rule, or permit. | Offense | 1 year | $100,000/day (minimum $500) | $250,000/day (minimum $1,000) | Double penalties |

STATE ENVIRONMENTAL CRIMINAL ENFORCEMENT STATUTES

TEXAS

HAZARDOUS WASTE

| Prohibited Act | Level of Violation | Maximum Imprisonment | Maximum Fine Individual | Maximum Fine Corporation | Subsequent Violation |
|---|---|---|---|---|---|
| SECTION 361.222*<br><br>Knowingly transports, processes, stores, exports, or disposes, or causes to be transported, processed, stored, exported, or disposed, in violation of chapter, and thereby knowingly places any other person in imminent danger of death or serious bodily injury. | Offense | 15 years | $250,000 (minimum $2,500) | $1,000,000 (minimum $5,000) | |
| If death or serious bodily injury results from the violation. | Offense | 30 years (minimum) 2 years) | $500,000 (minimum $5,000) | $1,500,000 (minimum $10,000) | |
| Intentionally or knowingly transports, processes, stores, or disposes of, or causes to be transported, processed, stored, exported or disposed of, in violation of this chapter, thereby placing any other person in imminent danger of death or serious bodily injury unless in compliance with all required permits, order, or rule. | Offense | 5 years | $150,000 (minimum $1,500) | $300,000 (minimum $3,000) | |
| If death or serious bodily injury results from the violation. | Offense | 10 years (minimum 2 years) | $300,000 (minimum $3,000) | $600,000 (minimum $6,000) | |
| Intentionally or knowingly releases, causes, or permits the release into the environment, thereby placing any other person in imminent danger of death or serious bodily injury, unless in compliance with all required permits, or order, or rule. | Offense | 5 years | $150,000 (minimum $1,500) | $300,000 (minimum $3,000) | |
| If death or serious bodily injury results from the violation. | Offense | 10 years (minimum 2 years) | $300,000 (minimum $3,000) | $600,000 (minimum $6,000) | |
| Recklessly releases, causes, or permits a release into the environment, thereby placing any other person in imminent danger of death or serious bodily injury unless in compliance with all required permits, order, or rule. | Offense | 1 year | $100,000 (minimum $1,000) | $250,000 (minimum $2,500) | |
| If death or serious bodily injury results from the violation. | Offense | 2 years (minimum 1 year) | $200,000 (minimum $2,000) | $500,000 (minimum $5,000) | |
| SECTION 361.2225<br><br>Intentionally or knowingly fails to pay a fee required. | Offense | 90 days | Twice the required fee. | Twice the required fee. | |

*Enhanced penalties

STATE ENVIRONMENTAL CRIMINAL ENFORCEMENT STATUTES

TEXAS

WATER POLLUTION

| Prohibited Act | Level of Violation | Maximum Imprisonment | Maximum Fine Individual | Maximum Fine Corporation | Subsequent Violation |
|---|---|---|---|---|---|
| SECTION 26.2121<br><br>Intentionally or knowingly discharges or permits the discharge of a waste or pollutant into or adjacent to water in the state that causes or threatens to cause water pollution unless in compliance with a permit, order, or rule. Permits a discharge from a point source in violation of these provisions, a rule, permit, or order. | Offense | 1 year | $25,000 (minimum $1,000) | $50,000 (minimum $1,000) | Double penalties |
| Discharges or permits a discharge into waters that cause or threatens to cause pollution unless in compliance with permit, order, or rule. | Offense | | $10,000 (minimum $100) | $10,000 (minimum $100) | Double penalties |
| Intentionally or knowingly tampers with, modifies, disables, or fails to use control or monitoring devices, systems, methods, or practices required by chapter, rule, permit, or order unless in compliance with the rules, permit, or order. | Offense | 1 year | $100,000 (minimum $500) | $250,000 (minimum $1,000) | Double penalties |
| Intentionally or knowingly makes or causes to be made a false material statement, representation, or certification in, or omits or causes to be omitted material information from, and application notice, record, report, plan, or other document, including monitoring device, data filed or required. | Offense | 1 year | $100,000 (minimum $500) | $250,000 (minimum $1,000) | Double penalties |
| Intentionally or knowingly fails to notify or report to the Commission as required. | Offense | 1 year | $100,000 (minimum $500) | $250,000 (minimum $1,000) | Double penalties |
| Intentionally or knowingly fails to pay a fee required. | Offense | 90 days | Twice the required fee. | Twice the required fee. | Double penalties |
| SECTION 26.2125<br><br>Intentionally or knowingly discharges or permits the discharge of a waste or pollutant into or adjacent to state waters and knowingly places any other person in imminent danger of death or serious bodily injury unless in compliance with a permit, order, or rule. | Offense | 10 years | $250,000/day (minimum $2,500/day) | $500,000/day (minimum $5,000/day) | |
| If death or serious bodily injury results from the violation. | Offense | 20 years (minimum 5 years) | $500,000/day (minimum $5,000/day) | $1,000,000/day (minimum $10,000/day) | |

STATE ENVIRONMENTAL CRIMINAL ENFORCEMENT STATUTES

TEXAS

WATER POLLUTION

| Prohibited Act | Level of Violation | Maximum Imprisonment | Maximum Fine Individual | Maximum Fine Corporation | Subsequent Violation |
|---|---|---|---|---|---|
| SECTION 26.2125 (CONTINUED)<br><br>Intentionally or knowingly with respect to person's conduct discharges or permits the discharge of a waste or pollutant into or adjacent to water in the state thereby placing any other person in imminent danger of death or serious bodily injury unless in compliance with permits, order, or rule. | Offense | 5 years | $150,000/day (minimum $1,500/day | $300,000/day (minimum $3,000/day) | |
| If death or serious bodily injury results from the violation. | Offense | 10 years (minimum 3 years) | $300,000/day (minimum $3,000/day) | $600,000/day (minimum $6,000/day) | |
| Recklessly discharges or permits the discharge of a waste or pollutant into or adjacent to waters in the state, thereby placing any other person in imminent danger of death or serious bodily injury unless in compliance with all permits, orders, or rule. | Offense | 1 year | $100,000/day (minimum $1,000/day) | $250,000/day (minimum $2,500) | |
| If death or serious bodily injury results from the violation. | Offense | 5 years (minimum 1 year) | $200,000/day (minimum $2,000/day) | $500,000/day (minimum $5,000/day) | |
| SECTION 26.213<br><br>Discharges waste to any water causing pollution not in compliance with permit or order. | Misdemeanor | | $10,000/day (minimum $10/day) | $10,000/day (minimum $10/day) | |
| Willfully or negligently causes, suffers, allows or permits discharge of water or pollutant from point source or otherwise violates chapter, or rule, regulation, permit or order.<br><br>Knowingly makes false statement, representation or certification in any document required.<br><br>Falsifies, tampers with or knowingly renders inaccurate any monitoring device or methods. | Misdemeanor | | $25,000/day | $25,000/day | |
| Violates permit limitation or condition. | Misdemeanor | | $10,000/day (minimum $10/day) | $10,000/day (minimum $10/day) | |

STATE ENVIRONMENTAL CRIMINAL ENFORCEMENT STATUTES

TEXAS

AIR POLLUTION

| Prohibited Act | Level of Violation | Maximum Imprisonment | Maximum Fine Individual | Maximum Fine Corporation | Subsequent Violation |
|---|---|---|---|---|---|
| SECTION 382.091<br><br>Intentionally or knowingly:<br><br>Violates provision on air pollution, an order, permit, rule, or exemption. | Offense | 180 days | $50,000/day (minimum $1,000/day) | $100,000/day (minimum $1,000/day) | Double penalties |
| Fails to pay after required by the chapter, rule, or order. | Offense | 90 days | Twice the required fee. | Twice the required fee. | Double penalties |
| Makes or causes to be made any false material statement, representation, or certification in, or omits material information from, or knowingly alters, conceals, or does not file or maintain any notice application record, report, plan, or other document required or maintained by the chapter, rule, permit, or order.<br><br>Fails to notify or report to the board as required by chapter, or rule, or permit, or order.<br><br>Tampers with, modifies, disables, or fails to use a required monitoring device; tampers with, modifies, or disables a monitoring device; or falsifies, fabricates, or omits data from a monitoring device unless in compliance with the chapter, permit, rule, variance, or other order. | Offense | 1 year | $100,000/day (minimum $500/day) | $250,000/day (minimum $1,000/day) | Double penalties |
| Recklessly omits a contaminant that places any other person in imminent danger of death or serious bodily injury unless the emission is in compliance with the chapter, permit, rule, variance, or other order. | Offense | 1 year | $100,000/day (minimum $1,000/day) | $250,000/day (minimum $2,500/day) | Double penalties |
| Intentionally or knowingly emits an air contaminant with the knowledge that the person is placing any other person in imminent danger of death or serious bodily injury unless in compliance with the chapter, permit, rule, variance, or other order. | Offense | 5 years | $150,000/day (minimum $1,500/day) | $300,000/day (minimum $3,000) | Double penalties |

STATE ENVIRONMENTAL CRIMINAL ENFORCEMENT STATUTES

TEXAS

OTHER

| Prohibited Act | Level of Violation | Maximum Imprisonment | Maximum Fine Individual | Maximum Fine Corporation | Subsequent Violation |
|---|---|---|---|---|---|
| SECTION 40.251<br>OIL SPILLS UPON WATERS AND LAND<br><br>Intentionally commits any of the prohibited acts relating to operating a terminal facility or vessel with a discharge prevention and response plan, establishing and maintaining financial responsibility, causing, allowing, or permitting an unauthorized spill of oil, making material false statement with a fraudulent intent in an application or report, or taking vessel from jurisdiction after unauthorized discharge, or fails to give notice of unauthorized discharge. | Class A Misdemeanor | 1 year | $2,000 | $2,000 | |
| With a fraudulent intent makes or causes to be made any material false statement in filing a claim or reporting any information concerning an actual or threatened unauthorized discharge of oil. | 3rd Degree Felony | 10 years (minimum 2 years) | $10,000 | $10,000 | |
| SECTION 91.604<br>OIL AND GAS HAZARDOUS WASTE<br><br>Knowingly violates a rule, order, or permit. | Offense | 6 months | $10,000/day | $10,000/day | |
| SECTION 365.012<br>DISPOSAL OF LITTER<br><br>Disposes or allows or permits the disposal of litter at a place that is not approved including a place on or within 300 feet of a public highway, on a right-of-way or other public or private property, or into inland or coastal water and weighs 15 pounds or less or is 13 gallons or less.<br><br>Receives litter for disposal at a place that is not approved, regardless of whether the litter or the land on which the litter is disposed is owned or controlled by the person and weighs 15 pounds or less or is 13 gallons or less.<br><br>Transports litter to a place that is not approved and weighs 15 pounds or less or is 13 gallons or less. | Class C Misdemeanor | | $200 | $200 | |
| If litter weighs more than 15 pounds but less than 500 pounds or is more than 13 gallons but less than 100 cubic feet. | Class B Misdemeanor | 180 days | $1,000 | $1,000 | |

STATE ENVIRONMENTAL CRIMINAL ENFORCEMENT STATUTES

TEXAS

OTHER

| Prohibited Act | Level of Violation | Maximum Imprisonment | Maximum Fine Individual | Maximum Fine Corporation | Subsequent Violation |
|---|---|---|---|---|---|
| SECTION 365.012<br>DISPOSAL OF LITTER (CONTINUED)<br><br>If litter weighs 500 pounds or more or is 100 cubic feet or more or disposed of for a commercial purpose and weighs more than five pounds or has a volume of more than 13 gallons. | Class A Misdemeanor | 1 year | $2,000 | $2,000 | |
| SECTION 365.013<br>DISPOSAL OF LITTER<br><br>Violates a rule adopted relating to processing and treating litter. | Class A Misdemeanor | 1 year | $2,000 | $2,000 | |
| SECTION 365.016<br>DISPOSAL OF LITTER IN A CAVE<br><br>Disposes litter, a dead animal, sewage, or any chemical in a case. | Class C Misdemeanor | | $200 | $200 | Class A Misdemeanor<br>$2000<br>1 year<br><br>Third Violation<br>3rd Degree Felony<br>$10,000<br>10 years<br>(minimum 2 years) |
| SECTION 365.034<br>REGULATION OF LITTER<br><br>Violation of an order adopted under this section regulating litter. | Class C Misdemeanor | | $200 | $200 | |