

# Rules and Criminal Enforcement

## **HGAC Solid Waste Workshop – Environmental Enforcement**

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# Overview

- **Getting the most “Bang for your Buck”**
- **Illegal Dumping**
- **Water Pollution**
- **Air Pollution (Outdoor Burning)**

# Illegal Dumping

- **Chapter 365, Health and Safety Code**
- **Class C Misdemeanors**  
**Can file as a lessor offense**
- **Class B Misdemeanors**  
**County charge**

# Illegal Dumping

- **Class A Misdemeanors**

**Commercial Purpose Violations**

**File on Corporation or other  
Business Entity**

- **County charge**

- **Could file a Lessor charge**

# Illegal Dumping

- **State Jail Felony Offenses**

**Commercial Purpose Violations**

**File on Corporation or other  
Business Entity**

- **County charge**

- **Could file a Lessor charge**

# Illegal Dumping

- **All misdemeanors are strict liability offenses**
- **Civil Lawsuits are also strict liability – No Culpable Mental State is required**
- **State Jail Felony Offenses – Must prove a Culpable Mental State**

# Water Pollution

- **Chapter 7.145 and 7.147, Water Code**
- **Unauthorized/Unpermitted Discharges into or adjacent to any Water in the State**
- **Includes Storm Sewers and Sanitary Sewers**
- **Generally liquids that are discharged**

# Water Pollution

- **Storm Water Violations – Citations**

**If there is a discharge:**

- **File a Special Misdemeanor – 7.147**

- **File a Special Felony – 7.145**

- **The Misdemeanor is a Strict Liability Offense**



# Air Pollution

- **Chapter 7.182, Water Code**
- **No Strict Liability Offenses**
  
- **Unlawful Outdoor Burning**
- **In a municipality – Ordinance Violation**
- **If a Commercial operation – Must file on the Corporation or other Business Entity**

# Air Pollution

- **Unlawful Outdoor Burning**
- **Outside of a Municipality – there is no State Law that creates a Class C Misdemeanor!**

# Did You Know?

- **Code of Criminal Procedure**
- **Chapter 4**
- **Article 4.14**
  
- **Jurisdiction of Municipal Court**

# Art. 4.14, CCP

- **A criminal case arising under the ordinances of a municipality**
- **Is punishable by a fine not to exceed**
- **(2)(A) \$2,000 in all cases arising under municipal ordinances that govern ... public health and sanitation, other than the dumping of refuse;**

# Art. 4.14, CCP

- **(2)(B) \$4,000 in cases arising under municipal ordinances that govern the dumping of refuse;**
- **Effective September 1, 2017**

# Criminal vs. Civil Enforcement

- **Illegal Dumping**
  - **One-time Offense**
  - **Illegal Landfill**
  
- **Water Pollution**
  - **One-time Discharge**
  - **Ongoing, Daily discharges**

# Criminal vs. Civil Enforcement

- **Can Criminal and Civil lawsuits be filed at the same time?**
- **An Injunction is not the same as filing a lawsuit for penalties.**
- **If both are filed, make sure there is an agreement before any charges are filed!**

# QUESTIONS???

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