WCC Issue

Environmental Crime

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Definition

Environmental Crimes are those acts or omissions that violate federal, state, or local environmental standards by endangering human health and the environment.

How It Happens

Environmental Crimes arise from a wide variety of acts or omissions by persons or entities who fail to comply with environmental laws and regulations that protect air and water quality, or govern the handling and disposal of waste. These laws and regulations impose minimum standards of operation, which help to prevent the release of pollutants into the environment and require individuals to take steps to stop pollution before it occurs.

Criminal violations of environmental laws and regulations range from recordkeeping errors to illegal dumping of hazardous wastes. Recordkeeping errors are known as "paper" or administrative violations that do not directly result in damage to the environment. Illegal dumping of hazardous wastes is at the other end of the spectrum because it often results in massive, permanent damage to people and the environment.¹

Other types of environmental criminal violations include oil spills; data fraud cases (e.g., private laboratories falsifying lab data); ocean dumping; document fraud cases (persons subject to regulations filing fraudulent documents with regulatory agencies); cleanup fraud; destruction of wetlands; chemical pollution of water resources; illegal dumping and burning of pollutants such as tires, household garbage, and medical waste; mishandling of toxic substances and pesticides; bribery of government officials; and the illegal removal and disposal of asbestos.

Unlike traditional crimes where individuals are the direct victims, environmental crimes can victimize the entire community where the crime was committed.² The magnitude and scope of the damages caused by environmental crimes are difficult to quantify because it may take years before the ecological and biological effects of pollution appear (e.g., lung diseases from asbestos exposure or birth defects from chemical contamination).

While most crimes are committed by individuals, environmental crimes can be committed by either individuals or organizations. Many corporations are good citizens who operate businesses in compliance with environmental requirements. However, there are other corporate entities that believe that the costs incurred for fines and/or cleanup should be treated like any other cost of doing business. These companies conduct a cost benefit analysis, which weighs the cost of proper compliance with the law against costs incurred for fines and cleanup if the illegal activity is discovered. This type of cost-benefit analysis often leads a company to conclude that violating the law is cheaper than complying with it.

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In 1991, the United States Sentencing Commission adopted the Federal Sentencing Guidelines for Organizations to deter organizational behavior that results in damage to the environment. The Guidelines require convicted defendant organizations to remedy any harm caused by the illegal activity. They also permit the courts to impose criminal fines and jail time depending on the severity of the damage and the company's compliance history. The Guidelines were amended in 2002 to address environmental crimes and damage caused as a result of terrorist activities in accordance with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA Patriot Act).

Cost and Statistics

Most of the major environmental laws in the United States were passed by Congress in the 1970s and 1980s. While there has not been a significant change in the legal requirements imposed by these laws, the government's enforcement of these laws has changed drastically. Environmental criminal enforcement has increased greatly on the federal, state, and local levels. The success of these enforcement efforts is due to the creation of task forces where federal, state, and local law enforcement agencies cooperate to secure convictions for environmental violations. Criminal fines are used to offset the economic benefit of non-compliance and jail time is used to deter future criminal behavior on the part of individuals who manage corporate scofflaws. This increased enforcement corresponds with increasing public concern for the environment coupled with a higher number of environmental disasters, such as the Union Carbide chemical leak in 1984 in Bhopal, India, which killed and injured over 10,000 people.

In 2001, the Environmental Protection Agency initiated 482 environmental criminal enforcement cases and charged 372 defendants. This enforcement effort resulted in jail sentences of 256 years for environmental crimes, and $95 million in criminal fines.

High Profile Examples/Case Studies

- In 1989, the Exxon Valdez spilled 11 million gallons of oil in the Prince Williams Sound, and polluted more than 1,200 miles of the Alaskan shoreline. Exxon paid $1 billion in criminal and civil fines in 1993.
- Smithfield Foods was ordered to pay $12.6 million in criminal and civil fines for contaminating the Pagan and James Rivers and the Chesapeake Bay with waste from its hog slaughtering operations. One of Smithfield's employees served thirty months in prison for falsifying environmental records filed with the Commonwealth of Virginia.

Additional Resources

- U.S. Environmental Protection Agency, Criminal Enforcement - http://www.epa.gov/compliance/criminal
- U.S. Department of Justice, Environment and Natural Resources Division - http://www.usdoj.gov/enrd

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Endnotes


5 U.S. Department of Justice. (2002). *Fiscal Year 2000 Performance Report, Section 1.5F*.


7 *In re Exxon Valdez*, 270 F.3d 1215 (9th Cir. 2001).