

Civil Environmental Enforcement Harris County Attorney's Office



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Environmental Practice Group

Today's Presentation

- Who are we?
- Civil Enforcement: Process
- Enforcement: Types of Cases



Who are we?

Harris County Attorney's Office

Environmental Practice Group

- Civil Enforcement
 - Enforce State Regulations for air, water and waste
 - Texas Water Code
 - Chapters 7 and 26
 - Texas Health and Safety Code
 - Chapters 361, 366 and 382
 - No person shall cause, suffer, allow, or permit a violation of a statute within the commission's jurisdiction or a rule adopted or an order or permit issued under such statute. Tex. Water Code § 7.101.
 - Enforcement of Local Regulations

Enforcement: Process

- Where do our enforcement cases come from?
 - Harris County Pollution Control Services Department
 - General Authority over Air, Water, and Waste
 - Refineries
 - Wastewater Treatment Plants
 - Nuisance Complaints for places that generate dust or odors
 - Emergency Response
 - Harris County Engineering
 - Construction Sites for Stormwater
 - On-Site Sewage Facilities



Enforcement: Process

How are cases initiated?

- Inspections – Routine or Complaint
- May Result in Violation Notices
- May Result in Referral to Harris County Attorney's Office or Harris County District Attorney's Office

HARRIS COUNTY #4125236 2-10-8-15 V# 877
PUBLIC INFRASTRUCTURE DEPARTMENT
ARCHITECTURE AND ENGINEERING DIVISION 10555 Northwest Frwy.
Suite 120
Houston, Texas 77092
(713) 956-3000

NOTICE OF VIOLATION

The property owner or occupant of this property is hereby notified that the on-site sewerage facility located on the property is in violation of the Revised Rules of Harris County, Texas for On-Site Sewerage Facilities. The term "on-site sewerage facility" includes, but is not limited to, septic tanks, absorption beds, pits, privies, cesspools sewage holding tanks, and injection wells used to dispose of sewage. (A description of the violation is given below.) You must take immediate steps to remove the violation described below or a complaint will be filed against you with the Justice of the Peace having jurisdiction in your area. Any person who violates the Revised Rules of Harris County, Texas for On-Site Sewerage Facilities is guilty of a misdemeanor, which is punishable by a fine for each day that the violation occurs. Prior to taking any corrective action or making any repairs to the on-site sewerage facility, please contact the Harris County Public Infrastructure Department at (713) 956-3000 to determine if an on-site sewerage facility license will need to be obtained to perform such work.

Inspection Date = 8-5-2015


PROPERTY INFORMATION

Street Number and Name _____
Subdivision Name *Recreation Farms* Section _____ Block _____ Lot _____
Abstract Number _____
Phone Number (____) _____

VIOLATION

_____ maintenance contract
_____ pay water
_____ new installation without permit
designed (multiple structures) on spray field

SERVICE

 **Pollution Control Services Department**
101 S. Richey, Suite H
Pasadena, Texas 77506
FAX: 713-274-6475

713-920-2831

August 11, 2011

VIOLATION NOTICE

Dear _____

The circumstances described below constitute a violation of the Texas Clean Air Act. You are requested to inform Compliance Coordinator Kathy Porter in writing within ten (10) days of steps being taken to be in compliance with this law and to prevent recurrence. Ms. Porter's address is: Pollution Control Department, 101 South Richey, Suite H, Pasadena, TX 77506, her fax number is 713-274-6475, or you can e-mail her at kathy.porter@pcs.hctx.net. Should you have any questions concerning this Violation Notice, or wish to arrange a conference to discuss any compliance plan, please call Ms. Porter at 713-274-6357.

NAME OF OFFENDER: _____
PERSON CONTACTED: _____
NATURE OF VIOLATION: _____

Enforcement: Air Program

- Statutory Nuisance Violations
- Emission Events
- Failure to Report Emission Events
- Permit Violations



Enforcement: Air Program

- Statutory Nuisance Violations
 - No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.” 30 Tex. Admin. Code § 101.4; Tex. Health Safety Code § 382.085(a).
 - Air contaminant includes particulate matter, dust, fumes, gas, mist, smoke, vapor or odor or any combination of these items. Tex. Health & Safety Code § 382.003(2).

Enforcement: Water Program

Unpermitted Discharges



Enforcement: Water Program

- Unpermitted Discharges
 - Except as authorized by the Commission, no person may discharge sewage, municipal waste, recreation waste, agricultural waste, or industrial waste into or adjacent to any water in the State. Tex. Water Code § 26.121(a).
 - No person may cause, suffer, allow or permit the discharge of any waste or the performance of any activity in violation of this chapter or of any permit or order of the commission. Tex. Water Code § 26.121(c).

Enforcement: Water Program

Unpermitted Discharges



Enforcement: Storm Water Program

Storm water is from rain and snowmelt events that flow over land or impervious surfaces, such as paved streets, parking lots, and building rooftops, and does not soak into the ground. The runoff picks up pollutants like trash, chemicals, oils, and dirt/sediment that can harm our rivers, streams, lakes, and coastal waters.



Enforcement: Storm Water Program


TCEQ Multi-Sector General Permit for Industrial Facilities

Permit No. TXR050000

Individual TPDES Permit

Check Local Regulations

Texas Commission on Environmental Quality
P.O. Box 13087 Austin, Texas 78711-3087



**GENERAL PERMIT TO DISCHARGE UNDER THE
TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM**

under provisions of Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

This permit supersedes and replaces
TPDES General Permit No. TXR050000, issued August 14, 2011.

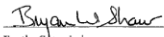
Facilities that discharge stormwater associated with industrial activity
located in the state of Texas
may discharge to surface water in the state

only according to effluent limitations, monitoring requirements and other conditions set forth in
this general permit, as well as the rules of the Texas Commission on Environmental Quality
(TCEQ), the laws of the State of Texas, and other orders of the Commission of the TCEQ
(Commission). The issuance of this general permit does not grant to the permittee(s) the right
to use private or public property for conveyance of wastewater along the discharge route. This
includes property belonging to but not limited to any individual, partnership, corporation or
other entity. Neither does this general permit authorize any invasion of personal rights nor any
violation of federal, state, or local laws or regulations. It is the responsibility of the permittee(s)
to acquire property rights as may be necessary to use the discharge route.

This permit and the authorization contained herein shall expire at midnight, five years from the
permit effective date.

EFFECTIVE DATE: August 14, 2016

ISSUED DATE: July 13, 2016


For the Commission

Enforcement: Waste Program

Unpermitted Storage or Disposal Sites

No person may cause, suffer, allow, or permit any activity of storage, processing, removal, or disposal of any solid waste unless such activity is authorized by a permit or other authorization from the commission. 30 Tex. Admin. Code § 330.7(a).

Except as otherwise authorized by this chapter, a person may not cause, suffer, allow, or permit the dumping or disposal of MSW without the written authorization of the commission. 30 Tex. Admin. Code § 330.15(c).



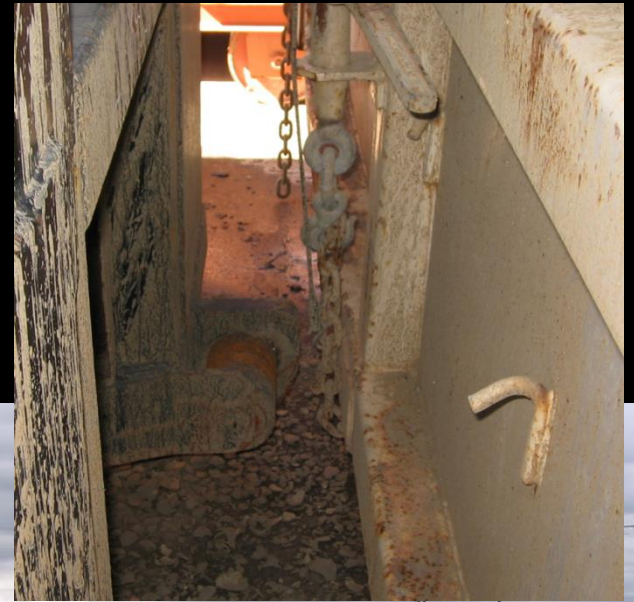
Solid Waste is defined as garbage, rubbish, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. Tex. Health & Safety Code § 361.003(34); 30 Tex. Admin. Code § 330.3(145).

Enforcement: Waste Program

Unpermitted Storage or Disposal Sites

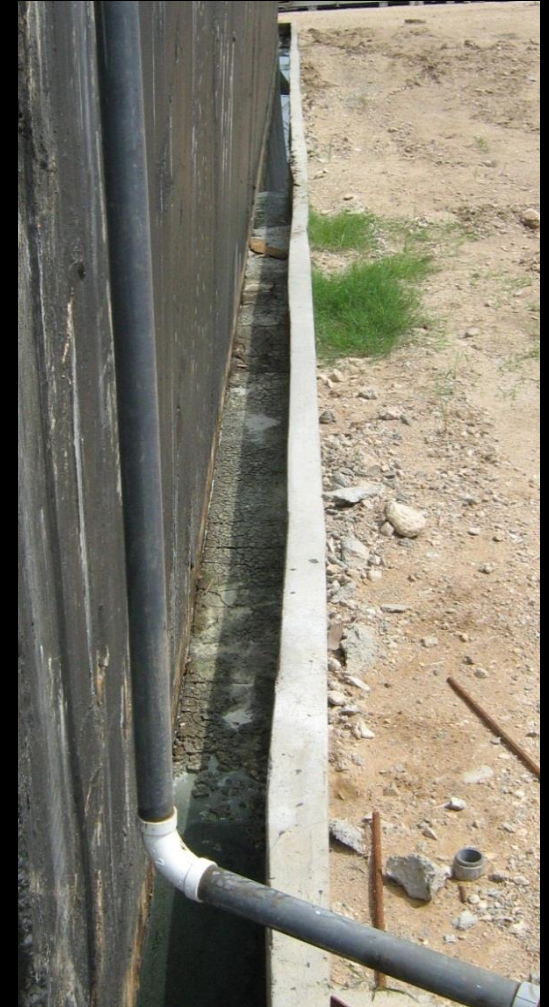


Enforcement: Multi-Media



Enforcement: Waste Program

Permit Violations



Enforcement: Waste Program

Permit Violations



Enforcement: Process

Upon referral to Harris County Attorney's Office

- File Suit in the same manner as the Commission
 - Tex. Water Code § 7.351
- Seek authorization from Commissioner's Court
 - Required by Tex. Water Code § 7.352
- TCEQ is a necessary and indispensable party
 - Tex. Water Code § 7.353

Enforcement: Process

Upon referral to Harris County Attorney's Office

- File a Petition in Harris County District Court
- Service of Process
- Discovery
- Injunction Hearing

Enforcement: Process

What Type of Relief?

- Statutory Injunction
 - Remedy any violation or threat of a violation of an environmental statute, rule or permit
 - Temporary Restraining Order
 - Temporary Injunction
 - Permanent Injunction

Enforcement: Process

TRO- Temporary Restraining Order:

- a. Emergency Order sometimes referred to as Cease & Desist- Sworn Petition
- b. Egregious Conduct
- c. It may be **ex parte**: In Harris County you must give notice of hearing
- d. Only lasts 14 days, renewed 1 time, must contain date for TI hearing of Trial
- e. Order enforceable by contempt

Enforcement: Process

TI - Temporary Injunction:

- a. Service is required- Notice is not enough
- b. Full Adversarial Hearing on merits
- c. Must show substantial likelihood you will prevail at trial
- d. TI must contain a trial date; lasts until case is called to trial
- e. Order is enforceable by contempt

Enforcement: Process

Additional Relief: Civil Penalties

- \$50 to \$25,000 for each day of each violation for violations of TCEQ, statutes, rules and permits; Each day of a continuing violation is a separate violation - Tex. Water Code § 7.102
- Additional Considerations
 - Split Penalty with State
 - Violations after September 1, 2015 – first \$4.3 million split
 - Remainder to State - Tex. Water Code § 7.107
 - Violations after September 1, 2017 – Notice to OAG and TCEQ under Tex. Water Code § 7.3511
- Attorney Fees
- Statute of Limitations
 - Tex. Water Code § 7.360

Enforcement

- Agreed Final Judgment
 - Texas Register Publication for 30 days
public comment
- Default Judgment
- Trial on Merits

Questions?

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Office of Vince Ryan
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