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## **OREGON'S EXPERIENCE IN DEVELOPING AND IMPLEMENTING A STATE ENVIRONMENTAL CRIMES PROGRAM**

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### **SUMMARY**

For many years, Oregon's Department of Environmental Quality enforced Oregon's environmental laws solely through the civil process. By 1993, it became clear that the State needed authority to allow criminal prosecution of the most-egregious violators. In proposing an environmental crimes program, the Department found broad citizen, business, and government support for criminal enforcement of extreme environmental violations, and the State passed an Environmental Crimes Act in 1993. The most difficult problems we encountered involved facilitating communication between the various parties and interests involved. In an effort to improve the communications and efficiency of the program, the Department initiated an ongoing training program for inspectors, criminal investigators, and prosecutors. In addition, the Department's Environmental Crimes Coordination Team meets weekly to discuss developments in current investigations and prosecutions. In our first full year of operation, Oregon investigated over 50 environmental crimes which have led to the criminal sentencing of numerous individuals and corporations. At a time when there is a government movement to conduct more technical assistance with less-culpable violators, Oregon believes that a strong environmental crimes program is necessary to any successful environmental protection strategy.

### **1 INTRODUCTION**

Before 1993, Oregon had little authority or capability to criminally prosecute violators of environmental law. At that time, Oregon could only seek misdemeanor penalties, which are the least severe punishments, for even the most extreme environmental violations. Furthermore, the State lacked the needed agency infrastructure to coordinate investigation and prosecution of environmental crimes. As a result, there was virtually no criminal prosecution of any kind of environmental violation.

Today, Oregon has some of the toughest environmental crime statutes in the country, providing for felony punishments up to fifteen years in prison. These statutes are administered by the Oregon Department of Environmental Quality with assistance from state and local coordination teams which provide direction for, and augment communication between, the environmental regulators, county emergency response teams, law enforcement officers, and criminal prosecutors. Although the various parties are still resolving the boundaries of their roles in the process, environmental crimes are now aggressively investigated and prosecuted in Oregon.

## **2 HISTORY AND THE NEED FOR AN ENVIRONMENTAL CRIMES PROGRAM**

Oregon has a national reputation for being a leader in environmental protection. Our citizens take great pride in the beauty and livability of the State. We have a strong environmental ethic and a tradition of supporting environmental protection. Oregon was the first state to enact a "Bottle Bill" requiring a deposit for beverage containers to encourage recycling, and has one of the most successful plastic recycling programs in the country. Oregon was also the first state to enact a comprehensive land-use-planning program to protect valuable farm and forestry land from over-development. We have continued our quest for environmental protection by passing laws, in 1989, to reduce the use of toxic chemicals and prevent pollution.

The State has obtained authorization from the United States federal government to administer, in Oregon, most of the federal environmental programs including the Clean Air Act, Clean Water Act, and the Resource Conservation and Recovery Act. The State legislature has adopted numerous environmental statutes governing air pollution, water pollution, hazardous and solid waste management, and contaminated-site cleanup that, in many cases, are more stringent than their federal counterparts. These laws are administered by the State's Department of Environmental Quality and its rule-making and adjudicative body, the Environmental Quality Commission.

In 1971, the Oregon legislature adopted an enforcement mechanism designed to punish and deter violators of environmental law. Since then, civil administrative enforcement has been the State's primary enforcement tool. In that civil arena, Department of Environmental Quality inspectors gather evidence of violation, and advise the agency's environmental law specialists who handle the legal aspects of assessing fines and issuing legal orders to bring violators back into compliance with the environmental laws. The process has worked well, as demonstrated by the low rate of recidivism among violators.

However, by 1992 Department of Environmental Quality began to document some environmental violations where violators had knowingly disregarded the law and disregarded the significant danger they caused to public health and the environment. Examples of these extreme violations included: covert dumping of hazardous waste onto public and forest land, intentionally by-passing pollution control equipment to discharge industrial wastes into rivers, falsifying discharge monitoring reports from required compliance self monitoring to conceal evidence of violation, and intentionally burning PCB-contaminated waste on public land. Environmental regulators, law enforcement officers, and citizens all agreed that the civil enforcement process was not effective in deterring these extreme types of violations and violators, and that a stronger, criminal enforcement process was needed.

## **3 DEVELOPING THE LEGISLATIVE CONCEPT**

### **3.1 Garnering support**

The initial step in developing a state environmental crime program was for Department of Environmental Quality to work with all the interested parties in defining the goals and structure of the program. Support from a wide variety of interested parties was necessary to convince the state legislators that the program was needed. Department of Environmental Quality also wanted to obtain commitments from the agencies and individuals who would be involved in administering the program. Department of Environmental Quality first approached the Oregon Attorney General to inquire about joining forces to develop proposed environmental crimes legislation. Department of Environmental Quality also met with the Oregon District Attorneys' Association (the criminal prosecutors' network) and Oregon State Police to describe environmental crimes, Oregon's

existing statutes, and the need for police involvement. Having convinced these parties that an environmental crimes program was needed, Department of Environmental Quality, the Attorney General, the District Attorneys and Oregon State Police formed a group to gather information, define roles and responsibilities, prepare draft legislation, and garner support of the citizenry.

Three factors were especially persuasive in building a broad base of support among citizens and the business community. First, nearly everyone believed that extreme violation of environmental law was criminal conduct, especially when violators knowingly disregarded public health in obtaining an unfair economic advantage over their competitors. Second, the federal Congress had enacted the Clean Air Act amendments of 1990 which authorized the states to administrate their own air-quality permitting programs. However, as a prerequisite for the federal authorization, states were required to have authority to enforce air quality laws through the criminal process. The primary organization representing industry (Associated Oregon Industries) wanted the State to run the air quality program instead of the federal government and was prepared to help build an environmental crimes program to satisfy the authorization requirements. Representatives of this industry organization also believed that the most egregious environmental violations should be treated criminally. Last, Oregon was one of only five states in the country with no felony authority for environmental violations. This was a key statistic — legislators and others wanted to prevent Oregon from becoming a haven for environmental criminals.

### 3.2 Defining the elements of the program

In the initial stages of developing an environmental crimes program, Department of Environmental Quality laid out short-and long term strategies for bringing together the necessary elements. We examined environmental-crimes programs administered in other states, and concluded that the elements necessary for a successful environmental crimes program would be:

- Environmental statutes and regulations that are written clearly.
- Enforcement authority that includes felony provisions.
- Law enforcement officers who are assigned to investigate environmental crimes and are trained in environmental law.
- Department of Environmental Quality (DEQ) field inspectors who are authorized to work on environmental crimes, trained in criminal law and procedure, and have access to adequate laboratory resources to handle the greater sampling analysis needed for a criminal prosecution.
- Criminal prosecutors who are trained in environmental law; and prepared to bring charges against extreme environmental violators.
- Prosecutors should have a procedure and a guidelines document for determining whether a given environmental violation will be criminally prosecuted.
- The environmental crimes program must have guidelines to clearly define the roles of the involved parties, their responsibilities, and the division of authority for making decisions during investigation and prosecution.
- Before undertaking a criminal investigation and prosecution, the various agencies involved should reach an understanding concerning their relative roles and responsibilities.

### 3.3 Enacting the environmental crimes package

The Department of Environmental Quality, the District Attorney Association, the Attorney General, and State Police co-sponsored the Environmental Crimes bill during the 1993 Oregon Legislative Session. The industry association introduced its own bill addressing environmental crimes. The co-sponsors of both bills, along with representatives of municipalities, small business, labor and other groups worked together during the legislative session to create comprehensive environmental crimes statutory package. After several months of negotiations, and public hearings in front of legislative committees, the participating parties reached a consensus on the bill's language. Subsequently, both the Democratic-controlled Senate, and the Republican-controlled House passed the bill with near unanimous support (See Section 8 below). At the signing ceremony, former Oregon Governor Barbara Roberts said that the Act sends a clear message that violations of the environmental laws will not be tolerated in this state.

## 4 STRUCTURE OF OREGON'S ENVIRONMENTAL CRIMES PROGRAM

### 4.1 The Department of Environmental Quality field inspectors

Department of Environmental Quality has approximately 300 field inspectors who routinely inspect facilities, identify violations of environmental law, and refer those violations to Department of Environmental Quality's Enforcement Section for civil enforcement. Although Department of Environmental Quality acquires some information about potential environmental crimes from citizen complaints, the majority of the leads come from Department of Environmental Quality inspectors who uncover extreme violations during the course of their civil inspections. Involving the field inspectors in the process has been one of the most problematic, and most rewarding, aspects of the program, as will be described more fully below.

### 4.2 The criminal law enforcement officers

The Legislature funded one full-time Oregon State Police Officer to work with Department of Environmental Quality regulators on the investigation of environmental crimes. That officer was hired in January 1994, and is physically located at Department of Environmental Quality's Enforcement Section office. In September 1993, the United States Environmental Protection Agency (U.S. EPA) concurrently established an environmental crimes office in Oregon which is now staffed by three full-time criminal investigators. The U.S. EPA criminal investigators are also located in Department of Environmental Quality's offices and work closely with the state criminal investigator and field inspectors. The close physical proximity of the law enforcement officers and the civil regulatory inspectors has enhanced communication between them and resulted in a better, more holistic understanding of the environmental laws and the environmental crimes process by all parties.

### 4.3 The environmental crimes coordination team

Department of Environmental Quality realized from the beginning that an Environmental Crimes Coordination Team would be needed to maintain and promote communication between the participants. The Team consists of representatives of Department of Environmental Quality, Oregon State Police, the federal Environmental Protection Agency, the Oregon Department of Justice, and the Federal Bureau of Investigation. Once a week, the Team meets to discuss environmental crimes. The Team discusses whether to initiate a full criminal investigation based on evidence supplied by Department of Environmental Quality inspectors and information

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obtained through citizen complaints. In some cases the Team, using investigative discretion, determines that the alleged conduct does not meet the criteria as an environmental crime and that the Department of Environmental Quality inspector should proceed with a civil enforcement action. In other cases, the Team determines that the state or federal law enforcement officers should initiate a criminal investigation. The Team also discusses the progress of ongoing investigations and strategies based on resource availability and the particular needs of the investigation. Any decision to commit Department Environmental Quality's resources to a criminal investigation is made after consulting with the Department of Environmental Quality Director.

#### 4.4 Local task forces

Because much of the prosecution of the environmental crimes is done by the county district attorneys, several counties have developed their own cooperative agreements to define responsibilities and expectations of the parties who may be involved in the discovery, investigation, and prosecution of environmental crimes in their community. The first such agreement was organized by the Multnomah County District Attorney's Office, which oversees the prosecution of crimes in Portland, Oregon's largest city. The District Attorney's Office brought together representatives from the fire departments, local governments, Department of Environmental Quality, Oregon State Police, and County Sheriff to coordinate the response to the discovery of environmental violations. The agreement described each agency's commitment to the environmental crimes program and established procedures for responding to environmental crimes. Other counties are currently organizing similar environmental crimes and first response teams.

#### 4.5 Department of Environmental Quality criminal enforcement criteria

Once Department of Environmental Quality had obtained the authority and infrastructure to investigate environmental crimes, and had developed a working relationship with the state and federal criminal investigators, Department of Environmental Quality began to examine the violations occurring in the State and define which environmental violations are so extreme that a criminal investigation is warranted. The result was the development of the "Department of Environmental Quality Criminal Enforcement Criteria." These criteria were designed to help Department of Environmental Quality inspectors define which environmental violations could meet the elements of a crime and therefore should be elevated for a possible criminal investigation. The criteria fall into three categories:

- History of noncompliance — If the violator has a history of violating the environmental laws, criminal enforcement may be warranted as a punishment and deterrent.
- Violator's culpability — A criminal investigation may be warranted if the violator was intentional, deceitful, deliberate or dishonest in committing the violation.
- Results of the conduct — Violators who cause a threat to public health or environmental damage are more likely to be prosecuted criminally than violators whose acts did not cause actual harm or threat of harm.

Our experience has shown that case selection is a critical element of the environmental crimes program. These criteria provide a framework for Department of Environmental Quality inspectors to determine whether conduct should be considered criminal, and whether the agency should employ some of its investigative resources to investigate a particular violation.

Using this criteria, Department of Environmental Quality inspectors have discovered and documented numerous environmental violations that have been criminally investigated and prosecuted. For example, Department of Environmental Quality pursued criminal investigation and prosecution of an electroplating operation because the operation endangered the public health of a residential neighborhood by intentionally abandoning a large volume of highly toxic hazardous wastes to avoid the costs of lawful and safe disposal. In a similar case, Department of Environmental Quality pursued criminal sanctions against a chrome-plating business that repeatedly dumped its chrome waste on the ground, contaminating residential drinking water wells with dangerous chemicals. In another case, Department of Environmental Quality sought a 51-count felony indictment of an underground storage tank clean-up business that repeatedly submitted falsified laboratory reports to Department of Environmental Quality in an effort to conceal evidence of its misconduct.

## **5 PROBLEMS IN EXECUTING THE PROGRAM AND OREGON'S SOLUTIONS**

### **5.1 Institutional bias against criminal enforcement**

Department of Environmental Quality's mission is to restore, enhance and maintain the quality of Oregon's environment, and Department of Environmental Quality has implemented its mission by bringing industry, small businesses, municipalities and others into compliance with the environmental laws. Historically, Department of Environmental Quality has promoted compliance through education and technical assistance programs in conjunction with its civil enforcement actions. As a result, some Department of Environmental Quality inspectors have had difficulty moving away from the cooperative compliance approach to pursuing violators criminally. Biases against criminal enforcement can also develop because criminal cases take a long time to prepare and complete. The inspectors are used to collecting evidence sufficient to prove a violation by the "preponderance of the evidence," needed in a civil case, and may not be used to collecting the more-rigorous and detailed evidence needed to meet the "beyond a reasonable doubt" burden of proof for a criminal conviction. Also, few Department of Environmental Quality inspectors have experience in participating in the criminal justice system. They may feel uncomfortable with the complex legal issues that arise during a criminal proceeding such as the Constitutional search and seizure requirements, confidentiality issues and prosecutorial discretion.

In an effort to overcome these biases, Department of Environmental Quality has organized training events for civil regulators to meet with the Environmental Crimes Coordination Team as well as criminal prosecutors and law enforcement officers. During these workshops we have explained the types of conduct considered criminal, and have introduced the inspectors to the criminal justice system so that they would have a picture of how the case should progress. We have shown the inspectors how their involvement in the crimes program is absolutely necessary to its success because they are the most likely individuals to observe criminal conduct by virtue of their considerable exposure to environmental compliance in the regulated community. Department of Environmental Quality inspectors have also attended national and regional criminal enforcement training programs. Progress has been made in developing Department of Environmental Quality inspectors' interest in pursuing environmental crimes. Ongoing training programs and other educational opportunities are vital to developing informed and prepared participants in the environmental crimes program.

## 5.2 Need for cross-training

Each of the primary players in the environmental crimes program has a defined area of expertise. The civil regulators understand the science behind the law and the technical requirements of compliance, but generally do not know the legal aspects of a criminal investigation and prosecution. Laboratory personnel understand the required sampling and analysis protocols. Criminal investigators know the legal aspects of conducting a criminal investigation, and they have experience in assisting prosecutors, but they generally do not know the science or the technical aspects of the law. Criminal prosecutors have legal procedure and litigation experience, but in general do not have the science background to fully understand the technical aspects of environmental laws. The communication problems that can result from these non-overlapping areas of expertise can cause breakdown of the program's system. If the criminal investigators do not understand the science or the consequences of a violation, they are less likely to see it as a crime. If the prosecutors feel over-burdened by the time needed to study the technical aspects of the complex environmental laws, they are less likely to budget time for an environmental crimes prosecution.

Because the program is new, many of the parties lack the experience of working with each other. Most of the communication problem can be solved by through educational cross-training and by facilitating discussion and communication between the parties. This has been a prime goal of the Environmental Crimes Coordination Team.

## 6 STATUS OF THE PROGRAM

### 6.1 Successes

Since its inception, the Environmental Crimes Coordination Team discussed almost 200 potential crimes and referred over 50 to the law enforcement officers for criminal investigation. Of these, 12 hazardous waste cases, 4 asbestos cases, 5 water quality cases and an underground storage tank case have been referred to state and federal prosecutors. So far, these have led to the charging of approximately 20 environmental crimes. As a result of subsequent misdemeanor and felony prosecutions, criminal sanctions imposed included the following:

- A husband and wife team, respectively the president and secretary of a plating company, performed plating operations on contract without properly disposing of any of the resulting waste sludges. When under investigation, the pair fled, abandoning 43,000 gallons of hazardous wastes and a number of unfulfilled contractual obligations. The pair were found guilty of six counts of illegal storage and disposal of hazardous wastes in the first degree, supplying false information to a state agency, and theft. He received a sentence of 14 months jail, 3 years supervision, and \$18,000 in restitution to injured parties. She received a sentence of 120 hours community service, 5 years probation, and \$5,000 in restitution to injured parties.
- A corporation and its president pled guilty to two counts of unlawful disposal of hazardous wastes when it was discovered that they had dumped chrome-plating solutions and contaminated an aquifer in a residential area. The plater knew the aquifer was contaminated, and began to supply bottled water to a neighboring resident, but did not tell her that her well-water was contaminated. In a negotiated settlement, the corporation and president agreed to pay a continuing fine of \$3,000

per month plus 40% of the future profits until the cleanup is completed and all costs of cleanup are repaid. The agreement also required 100 hours of community service, 5 years probation, and \$30,000 in restitution to the injured neighbor.

- A corporation repeatedly discharged raw sewage onto the grounds of a mobile-home park it operated, in flagrant violation of water quality law and of prior warnings it had received. The corporation pled guilty to water pollution in the second degree, and was sentenced to 1 year probation and \$3,500 in fines.
- A machine-shop owner repeatedly burned and otherwise unlawfully disposed of hazardous wastes. He pled guilty to a hazardous waste misdemeanor and the court ordered him to remediate the contamination he caused and bring the facility into full compliance with hazardous waste law.
- A fuel and used oil processor was discovered illegally accepting hazardous wastes and illegally blending hazardous wastes for energy recovery in a boiler. In settlement, the corporation agreed to bring the facility into compliance, to conduct studies and submit compliance reports, to pay a \$133,000 penalty, and to 4 years of probationary oversight. The processor has violated the terms of its probation and the Department is currently seeking additional sanctions.
- A corporation and its president were found guilty of illegal disposal of hazardous waste paint and were sentenced to 6 months home detention, a \$5,000 fine, 150 hours community service, \$30,000 in restitution to injured parties, and 5 years probation.

## 6.2 Future directions

Currently in the United States there are strong incentives to move away from total reliance on the historical enforcement approaches and to emphasize technical assistance and cooperative pollution prevention strategies. President Bill Clinton and Vice President Al Gore have initiated a number of new non-regulatory approaches to achieve compliance. Two such federal projects are the technical assistance centers for small businesses, and the new Project XL, where the federal government will allow companies that demonstrate superior excellence in environmental leadership to have flexibility in meeting regulatory requirements. State and local governments also have implemented new and creative ways to protect the environment, for example Oregon's Environmental Partnership with Oregon Communities Project. These programs are not intended to roll back the progress we have made. They are intended to allow us to make wiser and more efficient use of our resources, and to allow us to achieve our environmental goals more expeditiously by integrating pollution control into the process.

While we recognize that these new approaches and programs are helpful in bringing the regulated community into compliance, we believe that a strong enforcement program is necessary for any environmental compliance strategy. Our experience has also demonstrated that criminal enforcement of environmental laws is necessary to deter extreme environmental violations that are committed intentionally, repeatedly, deceitfully, or threaten public health and the environment. Oregon's environmental crimes program will continue to build on the institutional resources currently in place.

We have gained valuable experience by reviewing potential criminal cases with our civil inspectors, criminal investigators and the legal community. We will continue to define which violations should be treated through criminal prosecution and which cases will be handled with the traditional civil enforcement approach. We also will continue to improve our investigatory coordination by defining roles and responsibilities of the various participants and by taking the

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time to develop case specific investigator strategies. Future emphasis will be placed on developing case settlement strategies addressing issues such as cleaning up contaminated properties, recovering the state's costs and monitoring the violators' compliance with the environmental laws.

## **7 CONCLUSION**

Designing, establishing and implementing an environmental crimes program is a complicated task because of the diversity of necessary involved parties and interests. However, in Oregon, we found broad citizen, business, and government support for criminal enforcement of extreme environmental violations. In 1993, the State established a statutory basis for its criminal program. During 1994, and continuing through today, the Department has worked with the various state and local agencies to develop a well-integrated, coordinated and efficient system through which to discover, investigate and prosecute environmental crimes. The most difficult problem we encountered is in facilitating communication between all the involved agencies and individuals. Our solution to this problem has been the establishment of state and local coordination teams. We have overcome the obstacles to implementation, and our program has been successful. In our first full year of operation, we investigated over 50 environmental crimes which have lead to the criminal sentencing of numerous individuals and corporations. At a time when there is a government movement to conduct more technical assistance with less-culpable violators, Oregon believes that a strong environmental crimes program is necessary to any successful environmental protection strategy.

## **ANNEX: OREGON'S ENVIRONMENTAL CRIMES STATUTES**

### **1 Hazardous Waste Crimes**

#### 1.1 Unlawful disposal, storage, treatment or transportation of hazardous waste in the second degree (Oregon Revised Statutes (ORS) 468.922, 468.929)

1. Person commits the crime of unlawful disposal, storage, treatment or transportation of hazardous waste in the second degree if the person, in violation of any hazardous waste statutes, rules, licenses, permits or orders, knowingly treats, stores, disposes of or transports hazardous waste.
2. Unlawful disposal, storage, treatment or transportation of hazardous waste is a Class B misdemeanor punishable by a fine up to \$10,000 and one year imprisonment.

#### 1.2 Unlawful disposal, storage, treatment or transportation of hazardous waste in the first degree (ORS 468.926, 468.931)

1. A person commits the crime of unlawful disposal, storage, treatment or transportation of hazardous waste in the first degree if the person, in violation of any hazardous waste statute, rule, license, permit or order, knowingly disposes of, stores, or treats hazardous waste and:
  - a. As a result, recklessly causes substantial harm to human health or the environment.
  - b. Knowingly disregards the law in committing the violation.
2. Unlawful disposal, storage, treatment or transportation of hazardous waste in the first degree is a Class B felony punishable by a fine up to \$200,000 and 10 years imprisonment.

### **2 Air Pollution Crimes**

#### 2.1 Unlawful air pollution in the second degree (ORS 468.936)

1. A person commits the crime of unlawful air pollution in the second degree if the person knowingly violates any applicable requirement of the air quality statutes, a permit, rule or order.
2. Unlawful air pollution in the second degree is an offense punishable by a fine of up to \$10,000.

#### 2.2 Unlawful air pollution in the first degree (ORS 468.939)

1. A person commits the crime of unlawful air pollution in the first degree if the person, in violation of any air quality statutes, rule, permit, order or applicable requirement, knowingly discharges, emits or allows to be discharged or emitted any air contaminant into the outdoor atmosphere and:

- a. As a result, recklessly causes substantial harm to human health or the environment.
- b. Knowingly disregards the law in committing the violation.
2. Unlawful air pollution in the first degree is a Class B felony punishable by a fine up to \$200,000 and 10 years imprisonment.

### **3 Water Pollution Crimes**

#### **3.1 Unlawful water pollution in the second degree (ORS 468.943)**

1. A person commits the crime of unlawful water pollution in the second degree if the person, with criminal negligence, violates any water quality statute, rule, standard, license, permit or order.
2. Unlawful water pollution in the second degree is a misdemeanor punishable by a fine up to \$25,000 and one year imprisonment.

#### **3.2 Unlawful water pollution in the first degree (ORS 468.946)**

1. A person commits the crime of unlawful water pollution in the first degree if the person, in violation of any water quality statute, rule, standard, license, permit or order, knowingly discharges, places or causes to be placed any waste into the waters of the state or in a location where the waste is likely to escape or be carried into the waters of the state and:
  - a. As a result, recklessly causes substantial harm to human health or the environment.
  - b. Knowingly disregard the law in committing the violation.
2. Unlawful water pollution in the first degree is a Class B felony punishable by a fine up to \$200,000 or 10 years imprisonment or both.

### **4 Other environmental crimes**

#### **4.1 Environmental endangerment (ORS 468.951)**

1. A person commits the crime of environmental endangerment if the person:
  - a. Knowingly commits the crime of unlawful disposal, storage, treatment or transportation of hazardous waste in the first degree, unlawful air pollution in the first degree or unlawful water pollution in the first degree.
  - b. As a result, places another person in imminent danger of death or causes serious physical injury.
2. Environmental endangerment is a felony punishable:
  - a. If the defendant is an individual, by imprisonment of not more than 15 years, a fine of not more than \$1,000,000 or both.
  - b. If the defendant is other than an individual, by a fine of not more than \$2,000,000.

- c. In the case of a second or subsequent conviction under this section, by imprisonment of not more than 30 years, a fine of not more than \$5,000,000 or both.

#### 4.2 Supplying false information to agency (ORS 468.953)

1. A person commits the crime of supplying false information to any agency if the person:
  - a. Makes any false material statement, representation or certification, notice, plan, record, report or other document required by any provision of Oregon's environmental laws or rules.
  - b. Omits any material or required information, knowing it to be required, from any document described in paragraph (a) of this subsection.
  - c. Alters, conceals or fails to file or maintain any document described in paragraph (a) of this subsection in knowing violation of any provision of Oregon's environmental laws.
2. Supplying false information is a Class C felony punishable by a fine up to \$100,000 and five years imprisonment.

#### 4.3 Refusal to produce subpoenaed material (ORS 468.956)

1. Refusal, without good cause, to produce books
  - a. Subpoenaed materials.
  - b. Materials otherwise required to be submitted to any agency under the environmental statutes.
2. Refusal to produce material is a Class A misdemeanor punishable by a fine up to \$5,000 and one year imprisonment.