

BOE - Enforcement - P - 7 - Civil Penalties and Damages Policy- 043024

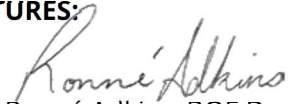
DISCLAIMER: This document is policy only and does not create legal rights or obligations. It is intended to provide the Department's Bureau of Environment staff guidance on how to apply decisions, procedures, and practices pertaining to the bureau's internal operation or actions. Decisions affecting the public, including the regulated community, will be made by applying applicable laws and regulations to the specific facts.

The Department reserves the right to act at variance with this policy and to change it at any time without public notice. This policy is in no way intended to limit the penalty amounts sought in civil judicial actions or to limit the actions or penalty amounts that may be assessed by any of the state environmental regulatory boards.

Where a conflict may exist between the contents of this guidance and the rules, regulations, and statutes enforceable by TDEC, the provisions of the rules, regulations, and statutes shall take precedence. Divisional policies and guidance may supplement the contents of this guidance.

EFFECTIVE DATE: January 17, 2025

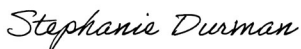
SIGNATURES:

A handwritten signature in cursive script that reads "Ronné Adkins".

Ronné Adkins, BOE Deputy Commissioner

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I. Introduction

This document establishes a policy for the calculation of civil penalties and damages in enforcement actions issued by the Bureau of Environment (“BOE” or the “Bureau”) within the Tennessee Department of Environment and Conservation (“TDEC” or the “Department”).

The goal of BOE’s compliance assurance and enforcement programs is to take fair and consistent enforcement actions to ensure compliance with Tennessee’s environmental regulations in a manner that promotes the health and well-being of the state’s citizens and protects its environment.

Complying with environmental regulations is an essential part of protecting public health and the environment. The Bureau offers assistance for complying with the law, monitors compliance, and takes enforcement action when necessary to ensure a high rate of compliance with environmental regulations in Tennessee.

Civil penalties and damages are a vital part of enforcement that financially incentivizes industries, businesses, communities, and individuals to meet their environmental obligations. Enforcement using civil penalties and damages serves several important goals, such as returning violators to compliance and deterring misconduct by the same party or others, eliminating or preventing environmental harm, and preserving a level playing field for responsible persons who abide by the law.

The goal of civil penalties is to address violations with timely, visible, and effective enforcement actions to achieve compliance. Timely and appropriate enforcement action should return the violator to compliance as expeditiously as possible, as well as deter future or potential noncompliance. The purpose of assessing damages is to recoup TDEC’s actual cost of enforcement.

This document supersedes the Uniform Guidance for The Calculation of Civil Penalties – 2011 and the Uniform Guidance for The Assessment of Damages – 2016.

II. Purpose and Scope

The purpose of this policy is to ensure that civil penalties and division damages are assessed in a fair and consistent manner.

To achieve compliance and to deter economic incentives for non-compliance, civil penalties and damages shall be assessed based on the following:

- Seriousness of the violation;
- Actual costs incurred in investigating and carrying out an enforcement action; and
- Economic benefit realized by the respondent as a result of non-compliance.

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This document outlines enforcement procedures and the penalty calculation process, enabling Divisions to be consistent across BOE. Each Division may establish its own guidance on calculating penalties, provided such procedures are consistent with this policy, subject to OGC review.

The assessment of natural resource damages is outside of the scope of this policy. See BOE-P-03 Groundwater NRD-111420 and DWR-CE-P-01-NRD Assessment-05152019.

III. Legal Authority

The statutory authority for assessing civil penalties and damages is set out in the Tennessee Code Annotated. The pertinent sections are outlined in Appendix A, Table of Legal Statutes.

IV. Civil Penalties

A civil penalty is a non-criminal remedy for a party's violation of laws or regulations. This policy is in no way intended to limit the penalty amounts sought in civil or criminal judicial actions or to limit the actions or penalty amounts that may be assessed by any of the state environmental regulatory boards.

1. Base Penalty

A. Calculation Process

The method for calculating penalties consists of weighing the gravity and duration of the violation or violations, as well as the associated circumstances and outcomes. The following steps are used to calculate each violation or class of violations of the statute or of the regulations:

1. Determine a gravity-based penalty amount for a violation from the Gravity-Based Penalty Matrix, Figure 2;
2. Add a “multi-day” component, where appropriate and supported by the available evidence, in consideration of the duration of the violation(s);
3. Adjust the sum of the gravity-based and multi-day components to reflect case-specific circumstances, if warranted (good-faith credit, negligence, history of non-compliance, etc.);
4. Add any economic benefit realized by the Respondent through noncompliance; and
5. Confirm that the adjusted total does not exceed the statutory maximum.

$$\begin{array}{r} \text{Gravity-based component} \\ + \text{ Multi-day component} \\ + \text{ or - Adjustments} \\ + \text{ Economic Benefit} \\ = \text{ Base Penalty} \end{array}$$

Figure 1. Base Calculation Process

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B. Determination of a Gravity-Based Penalty

Cite each violation, or type of violation including the date(s) of occurrence(s), and for each violation, perform the following steps:

1. Establish which factors to consider based on the pertinent environmental statute (see Appendix A). The factors and specific language vary, depending on the statute.
2. Determine whether the harm potential to public health and/or the environment is major, moderate, or minor.

In determining harm potential, factors to be considered include, but are not limited to:

- Evidence of release to the environment.
- Quantity of release.
- Toxicity of release.
- Potential/actual transport or migration of release by way of air, surface water, or groundwater.
- Existence, size, and proximity of receptors (workers, residents, fish, wildlife, sensitive environmental media such as wetlands, sole source aquifer, surface waters).
- Large, sophisticated facilities constructed or operated without a permit.
- Any other factor established by statute or rule.

3. Determine whether the extent of deviation from the statutory or regulatory requirements is major, moderate, or minor.

In determining extent of deviation, factors to be considered include, but are not limited to:

- Exceeding percentage of permitted discharge.
- Failure to report compared to a late or incomplete report.
- Failure to test spill and overfill equipment within different time periods.
- Missing required certifications.
- Failure to comply with different storage limits.
- Any other factor established by statute or rule.

4. Using the factors above, apply the penalty matrix to determine the appropriate gravity-based penalty range.

The case manager should use the low-end range on the gravity-based penalty table in the preliminary penalty determination for each violation before adjusting. Unless the low-end range of the gravity-based penalty from the table is used, the case manager should document the rationale for a higher civil penalty that is not duplicated by any subsequent adjustments.

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Ultimately, selecting the exact penalty amount within each cell range is based upon the discretion and judgment of the case manager and the Division Director in any given case.

Note that several environmental statutes carry a “not less than” provision. Any calculated penalty amount must comply with those minimums.

Penalty Matrix For Gravity-Based Component

Potential For Harm	Extent of Deviation from Requirement		
	Major	Moderate	Minor
Major	100% to 80%	80% to 60%	60% to 44%
Moderate	44% to 32%	32% to 20%	20% to 12%
Minor	12% to 6%	6% to 2%	2% to 1%

*Percentages in the table are % of the statutory maximum for each program area.

Figure 2. Penalty Matrix for Gravity-Based Component

The Division of Solid Waste Management (DSWM) uses the below modified penalty matrix specific to the \$50,000 per day per violation statutory maximum for Hazardous Waste Civil Penalties, TCA 68-212-114 according to historic and ongoing norms of solid waste enforcement. The DSWM matrix must also comply with statutory minimums and maximums.

DSWM Modified Penalty Matrix

Potential For Harm	Extent of Deviation from Requirement		
	Major	Moderate	Minor
Major	\$50,000 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
Moderate	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
Minor	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

Figure 3. DSWM Modified Penalty Matrix

C.Adding a Multi-Day Component

For each ongoing violation that has continued for more than one day, the case manager should decide whether to apply multi-day penalties. Continuing violations should be documented either by observation and testing in the field, through self-reporting by the Respondent, or by demonstrating that the Respondent failed to take an action required by statutory or regulatory guidelines, or other mechanisms containing a compliance date. Multi-day penalties do not apply to multiple separate violations of the same type.

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To calculate the multi-day component of the penalty, locate the proper cell in the Multi-Day Penalty Matrix. Then multiply a dollar amount selected from the cell by the number of days the violation lasted, minus one day (one day is subtracted because the first-day penalty is higher and is selected from the Gravity-Based Penalty Matrix). This amount is then added to the amount selected for the first day of violation from the Gravity-Based Penalty Matrix. While this policy provides general guidance on the use of multi-day penalties, nothing in this policy precludes the assessment of penalties up to each program's statutory maximum for each day after the first day of any given violation.

Multi-Day Penalty Calculation Matrix			
Potential For Harm	Extent of Deviation from Requirement		
	Major	Moderate	Minor
Major	20% to 4%	16% to 3%	12% to 2%
Moderate	8% to 1.6%	6.4% to 1%	4% to 0.6%
Minor	2.4% to 0.4%	1.2% to 0.4%	0.4%

*Percentages in the table are % of the statutory maximum for each program area.

Figure 4. Multi-Day Penalty Matrix

Additionally, DSWM will use the below modified multi-day penalty matrix in conjunction with their modified penalty matrix for civil penalties under TCA 68-212-114.

DSWM Modified Multi-Day Penalty Matrix			
Potential For Harm	Extent of Deviation from Requirement		
	Major	Moderate	Minor
Major	\$5,000 to \$1,000	\$4,000 to \$750	\$3,000 to \$550
Moderate	\$2,200 to \$400	\$1,600 to \$250	\$1,000 to \$150
Minor	\$600 to \$100	\$300 to \$100	\$100

Figure 5. DSWM Modified Multi-Day Penalty Matrix

D. Compression of Violations

At the discretion of the Division Director, violations may be compressed; that is, where multiple violations flow from one action, or failure to act, or where violations are substantially similar, those violations may be grouped together and treated as one violation. Examples include, but are not limited to:

- Where a facility fails to install a groundwater monitoring system, taking quarterly samples would be a violation, but the facility would have been unable to comply without first having

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- the groundwater monitoring system installed. Therefore, any violations related to the groundwater monitoring system, had it been installed as required, may be grouped under one violation - failure to install a groundwater monitoring system.
- If a facility fails to obtain permit coverage under a general permit or permit-by-rule, it may also be in violation of some or all of the permit requirements. Any violations besides the failure to notify and obtain permit coverage may be compressed and grouped together to determine penalty calculations.

Compressing violations is discretionary. As long as the total penalty for all related violations is appropriate considering the gravity of the offense, is sufficient to deter similar future behavior, and the economic benefit is recovered, the compression of violations is acceptable.

E. Adjustments to Initial Penalty

Adjustment factors can increase or decrease the penalty calculated from the matrices, depending on the facts of each case. Adjustments (increases or decreases) for good-faith efforts to comply, for negligence/willfulness, or for a history of non-compliance should be applied to the sum of the Gravity-Based and the Multi-Day components before the addition of any economic benefit amount. Divisions may also consider statute-specific factors when making adjustments to the base penalty. More than one adjustment factor may apply in a case; however, after all adjustment factors have been applied, the resulting penalty shall not exceed the statutory maximum per day of violation and shall not increase, or decrease, the penalty by more than 50%.

Divisions should consider any applicable statute-specific penalty factors.

A respondent can demonstrate good faith by promptly identifying and reporting noncompliance or by instituting measures to remedy the violation before the Department detects the violation. In other words, good faith may be shown through the actions and deeds of a respondent in attempting to come into compliance rather than their inaction. Examples of good faith are often case-specific. Such good faith may allow the gravity-based penalty to be decreased by up to 50%.

In contrast, the gravity-based penalty may be increased by up to 50% upon a showing of willfulness and/or negligence. Factors to consider in determining willfulness or negligence include, but are not limited to:

- How much control the violator had over the events constituting the violation.
- Whether the violator could have foreseen the events resulting in the violation.

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- Whether the violator took reasonable precautions to prevent the violation.
- Whether the violator knew or should have known of the hazards associated with the conduct.
- Whether the violator knew or should have known of the legal requirement which was violated.

Separate from willfulness or neglect, the penalty may be increased by up to, but may not exceed, 50% upon a showing that the Respondent has a history of non-compliance prior to the violations for which a penalty is assessed in this order. Where a respondent has previously violated a program's regulations, this is clear evidence that the Respondent was not deterred by the previous enforcement action. Factors to consider in establishing a history of non-compliance include, but are not limited to:

- Similarity to the previous violation(s).
- Timeframe between previous violation(s).
- Number of previous violations.
- Respondent's response to previous violations.

Only documented violations should be considered when evaluating a history of non-compliance. Documentation may include inspection reports, self-monitoring reports, photographs, notices of violation, compliance review or show-cause meetings, or formal enforcement actions.

The total upward adjustment for a history of violations, willfulness, and negligence may not exceed 50% of the gravity-based component of the penalty matrix.

F. Upfront and Contingent

A civil penalty may consist of an "upfront" cash component, which is due according to the schedule specified in the Order, and may also include a "contingent" component, which is waived if the Respondent meets specified conditions of the Order. The upfront civil penalty should remove any known economic benefit that the Respondent may have received during the period of non-compliance and encourage compliance by having non-compliance cost more than compliance. The purpose of a contingent penalty is to incentivize the Respondent to correct the violations or take remedial actions within the specified timelines. The contingent penalties become due if the Respondent misses the compliance dates specified in the Order. However, payment of these contingent penalties does not relieve the Respondent of the duty to comply with the requirements of the Order. Moreover, payment of contingent civil penalties does not relieve the violator of separate enforcement for new violations.

2. Economic Benefit Gained Through Non-Compliance

The BOE should recover the economic benefit any respondent gains from non-compliance with

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environmental statutes. The primary goal of economic benefit recovery is to remove the cost saving associated with delayed or avoided pollution control expenditures or other compliance costs, thus incentivizing respondents to pay the cost of compliance up front and on time rather than to delay the cost only to eventually pay the cost of compliance plus the cost of a penalty. If the Bureau is to achieve deterrence effectively, any significant economic benefit resulting from failure to comply with the law should be recovered. Non-compliance can yield an economic benefit in one of two ways: delayed costs and avoided costs. Delayed costs are expenditures deferred due to the respondent's failure to comply with the regulations. Delayed costs are either capital costs (e.g., equipment) or one-time non-depreciable costs (e.g., cleaning up a spill). The respondent eventually will have to spend the money to achieve compliance; however, during the period of non-compliance, the respondent realizes an economic gain because they did not have to spend or borrow money for that period to purchase services, equipment, or supplies necessary to achieve compliance. Delayed costs include items the Order requires the Respondent to implement.

Examples of violations that result in savings from delayed costs are:

- Failure to timely submit a permit application.
- Failure to timely install groundwater monitoring equipment.

For delayed costs, the economic benefit consists of the time value of money: essentially, the interest saved from the time when the cost should have been incurred and the time when it is incurred.

Avoided costs are expenditures that will never be incurred because of the facility's noncompliance. Avoided costs include the usual operating and maintenance costs and any periodic annual costs. Examples of violations that result in savings from avoided costs are:

- Failure to perform compliance tasks.
- Failure to perform periodic groundwater monitoring, sampling, or analysis.

The economic benefit component of the penalty calculation would include the profits approximately attributable to the violation, subject to the statutory maximum. In cases where the economic benefit is clearly less than \$2,500, the Bureau need not perform a detailed calculation of the exact benefit and will not include this component in penalty calculations.

Economic benefit is part of the civil penalty and may not result in exceeding the statutory maximum penalty.

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V. Damages

The collection of agency damages (as distinguished from natural resource damages) reflects the additional time and costs that division personnel must expend when formal enforcement must be pursued. The next section explains how agency damages are calculated.

1. Damages Definition

Damages are expenses that are above and beyond those incurred during routine inspections, compliance monitoring, and administrative expenses that are not offset by fees. These expenses include, but are not limited to, staff time, vehicle mileage, and any sampling and analytical costs.

2. Assessment of Damages

- **Salary and Benefits:** Current actual salary + benefits dollar amounts should be obtained from TDEC's Division of People and Organizational Development for each employee involved in the investigation. The calculated hourly rate should be multiplied by the number of hours the employee spent on the enforcement matter.
- **Overhead Costs:** Add the amount of \$3.13/hour for each hour of employee time to cover overhead costs, including printing, supplies, rent, equipment, and professional services. This amount is derived from the Tennessee Environmental Streamlining Agreement between TDEC, the Tennessee Department of Transportation, and the U.S. Department of Transportation Federal Highway Administration, signed and effective December 9, 2013. Modifications increasing overhead costs become effective with any subsequent updates to the Tennessee Environmental Streamlining Agreement.
- **Vehicles and Travel:** Vehicle expenses can be obtained for state-owned and leased vehicles. The current mileage reimbursement rate may be used pursuant to the effective reimbursement rates as authorized by [General Services Administration \(GSA\)](#). That cost per mile should be multiplied by the actual number of miles logged on the vehicle.
- If an employee used their privately-owned vehicle, the amount the state reimbursed the employee pursuant to the [Comprehensive Travel Regulations Policy](#) for state employees should be included in the damages assessment.
- **Other:** Other reasonable expenses that may be included in the division damages assessment include but are not limited to sampling and laboratory analysis costs, certified mail, and service

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of process costs.

VI. Other Enforcement Resources

1. Natural Resource Damages

Certain environmental statutes authorize the Department and BOE to include an assessment of damages for loss or destruction of wildlife, fish, and aquatic life; costs associated with restoring the air, water, land, and other property to their former condition; and other actual damages caused by the violation. Natural resource damages should be reviewed in cases that result in a temporary or permanent loss of resources. The policies on natural resource damages can be found at [TDEC's Policy and Guidance site](#).

2. Supplemental Environmental Projects

In some cases, BOE will accept a supplemental environmental project (SEP) in lieu of a portion of civil penalties. A SEP is an environmentally beneficial project that a violator agrees to implement as part of a settlement of an enforcement action. However, the violator is not otherwise legally obligated to perform the project activity. The policy on SEPs can be found at [TDEC's Policy and Guidance site](#).

3. Enforcement Database

BOE has developed an online enforcement database. Individuals can query the database by type of enforcement action and various other search criteria, including site location, county, action status, involved party, and TDEC regulatory division. This can be found on [TDEC's Enforcement Program site](#).

4. Division Policies and Standard Operating Procedures

The enforcement procedures and penalty calculation process outlined in this document provide a framework to maintain consistency across the Bureau while supporting the Divisions' authority to consider statute-specific factors and exercise discretion in penalty determination. Divisions are encouraged to develop supplementary instructions and procedures to inform and guide their determinations within the framework of this policy. Divisional policies and Standard Operating Procedures are maintained on the [TDEC's Policy and Guidance site](#).

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REVISION HISTORY TABLE

Revision Number	Date	Brief Summary of Change
0	01/17/25	<p>BOE Enforcement Civil Penalties and Agency Damages Policy that supersedes the following policy and guidance:</p> <p>Uniform Guidance for The Calculation of Civil Penalties – 2011</p> <p>Uniform Guidance for The Assessment of Damages – 2016</p>

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Appendix A

The statutory authority for assessing civil penalties and damages is set out in the Tennessee Code Annotated. The pertinent sections are outlined here:

Title	Statute	Language (excerpts)
Tennessee Solid Waste Disposal Act	Tennessee Code Annotated § 68-211-117	<p>(a) (1) Any person who violates or fails to comply with any provision of this part or any rule, regulation, or standard adopted pursuant to this part shall be subject to a civil penalty of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per day for each day of violation; provided, however, that if the violation involves the disposal of solid waste in a sinkhole, it shall be subject to a civil penalty of not less than seven hundred dollars (\$700) nor more than seven thousand dollars (\$7,000) per day for each day of violation because of the increased likelihood of harm to the environment and the public.</p> <p>(2) Each day such violation continues constitutes a separate violation. In addition, such person shall also be liable for any damages to the state resulting therefrom, without regard to whether any civil penalty is assessed.</p> <p>....</p> <p>(c) In assessing a civil penalty, the following factors may be considered:</p> <p>(1) The harm done to public health or the environment;</p> <p>(2) The economic benefit gained by the violators;</p> <p>(3) The amount of effort put forth by the violator to attain compliance; and</p> <p>(4) Any unusual or extraordinary enforcement costs incurred by the commissioner.</p> <p>(d) Damages to the state may include any reasonable expenses incurred in investigating and enforcing violations of this part, and in restoring the air, water, land and other property, including animal, plant and aquatic life, of the state to their former condition.</p>
Tennessee Hazardous Waste Management Act (HWMA)	Tennessee Code	<p>Violations — Criminal and civil penalties.</p> <p>(a) Any person who:</p> <p>(1) Fails, neglects, or refuses to comply with a land use restriction filed pursuant to § 68-212-</p>

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Title	Statute	Language (excerpts)
	Annotated § 68-212-113	<p>225;</p> <p>(2) Fails to pay the fees authorized by this part;</p> <p>(3) Fails to file any reports, records or documents required pursuant to this part;</p> <p>(4) Fails, neglects, or refuses to comply with any provision of this part, a regulation promulgated under this part or an order issued pursuant to this part;</p> <p>(5) Fails to provide information requested by the commissioner in the administration of this part; or</p> <p>(6) Knowingly gives or causes to be given any false information in any reports, records, or documents required pursuant to this part;</p> <p>commits a Class B misdemeanor. In addition, such person shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) and, if appropriate, the original fee plus interest. Each day such violation continues constitutes a separate offense.</p> <p>(b) In assessing a civil penalty, the following factors may be considered:</p> <p>(1) The harm done to the public health or the environment;</p> <p>(2) The economic benefit gained by the violators;</p> <p>(3) The amount of effort put forth by the violator to obtain compliance; and</p> <p>(4) Any unusual or extraordinary enforcement costs incurred by the commissioner.</p>
Tennessee Hazardous Waste Management Act (HWMA)	Tennessee Code Annotated § 68-212-114	<p>(b) (1) Any person who violates or fails to comply with any provision of this part, any order of the board or commissioner, the terms or conditions of any permit issued, or any rule, regulation or standard adopted pursuant to this part shall be subject to a civil penalty of up to fifty thousand dollars (\$50,000) per day for each day of violation. Each day upon which such violation occurs constitutes a separate punishable offense, and such person shall also be liable for any damages to the state resulting therefrom.</p> <p>...</p> <p>(3) In assessing a civil penalty, the following factors may be considered:</p>

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Title	Statute	Language (excerpts)
		<p>(A) The harm done to public health or the environment; (B) The economic benefit gained by the violators; (C) The amount of effort put forth by the violator to attain compliance; and (D) Any unusual or extraordinary enforcement costs incurred by the commissioner. (4) Damages to the state may include any reasonable expenses incurred in investigating and enforcing violations of this part, and in restoring the air, water, land and other property, including animal, plant and aquatic life, of the state to their former condition.</p> <p>(c) (1) Any person who violates or fails to comply with any provision of this part or any rule, regulation, or standard adopted pursuant to this part shall be subject to an administrative penalty not to exceed one thousand dollars (\$1,000) per violation, with each day such violation continues constituting a separate punishable offense.</p>
Tennessee Petroleum Underground Storage Tank Act	Tennessee Code Annotated § 68-215-121	<p>(a) Any person who violates or fails to comply with any provision of this chapter, any order of the commissioner or board, any rule, regulation, or standard pursuant to this chapter shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000) per day for each day of violation. This civil penalty may be assessed by the commissioner, the board or the court. Each day such violation continues constitutes a separate punishable offense, and such person is also liable for any damages to the state resulting therefrom. In deciding whether to assess a civil penalty and determining the amount of such assessment, the commissioner, board, or court may consider all of the circumstances surrounding the violation, including the past compliance history of the violator, the degree of risk posed to the environment by the violation, as well as the factors enumerated in subsection (c). </p> <p>(c) In assessing a civil penalty, the following factors may be considered: (1) The harm done to the public health and/or the environment; (2) The economic benefit gained by the violator through noncompliance; (3) The amount of effort put forth by the violator to obtain compliance; and (4) Any unusual or extraordinary enforcement costs incurred by the commissioner, including</p>

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Title	Statute	Language (excerpts)
		<p>compensation for loss or destruction of wildlife, fish, and any aquatic life resulting from the violation.</p> <p>(d) Damages to the state may include any reasonable expenses incurred in investigating and enforcing violations of this chapter and in restoring the air, water, land, and other property, including the replacement of animal, plant, and aquatic life destroyed due to the violation.</p>
Tennessee Air Quality Act	Tennessee Code Annotated § 68-201-116	(b) (1) In addition to the criminal penalties of § 68-201-112, any person who violates or fails to comply with any provision of this part or any rule, regulation, ordinance, or standard adopted pursuant to this part shall be subject to a civil penalty of up to twenty-five thousand dollars (\$25,000) per day for each day of violation. ... Each day such violation continues constitutes a separate punishable offense, and such person shall also be liable for any damages to the state resulting from the continued violation.
Tennessee Air Quality Act	Tennessee Code Annotated § 68-201-106	<p>Nothing in this part shall be deemed to grant the board or department any jurisdiction or authority with respect to air pollution existing solely within commercial or industrial plants, works or shops or to affect the relations between employers and employees with respect to or arising out of any condition of air pollution. In exercising powers to prevent, abate and control air pollution, the board or department shall give due consideration to all pertinent facts, including, but not necessarily limited to:</p> <p>(1) The character and degree of injury to, or interference with, the protection of the health, general welfare and physical property of the people;</p> <p>(2) The social and economic value of the air contaminant source;</p> <p>(3) The suitability or unsuitability of the air pollution source to the area in which it is located. In this respect it is expressly anticipated that the board may establish zones and categories of air contaminant sources in which the standards, rules and regulations may differ according to zone and category of air contaminant source;</p> <p>(4) The technical practicability and economic reasonableness of reducing or eliminating the emission of such air contaminants;</p>

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Title	Statute	Language (excerpts)
		<p>(5) The economic benefit gained by the air contaminant source through any failure to comply with this part and regulations promulgated thereunder; and</p> <p>(6) The amount or degree of effort put forth by the air contaminant source to attain compliance.</p>
Radiological Health Service Act	Tennessee Code Annotated § 68-202-212	<p>(b) Any person who violates or fails to comply with any provision of this part, any order issued in accordance with this part, or any rule, regulation or standard adopted pursuant to this part, or who fails to pay a lawfully levied fee is subject to a civil penalty of not less than one hundred dollars (\$100) and not more than five thousand dollars (\$5,000) per day for each violation. Each day such violation continues constitutes a separate violation, and such person is also liable for any damages to the state resulting from such violations.</p> <p>...</p> <p>(c) (2) In assessing a civil penalty, the following factors may be considered:</p> <p>(A) The harm or potential harm done to the public or the environment;</p> <p>(B) The economic benefit gained by the violators;</p> <p>(C) The amount of effort put forth by the violator to attain compliance;</p> <p>(D) Any unusual or extraordinary enforcement cost incurred by the state; and</p> <p>(E) The need for an economic deterrent from future violations.</p> <p>(3) Damages to the state may include any reasonable expenses incurred in investigating and enforcing violations of this part, and in restoring the air, water, land and other property, including animal, plant and aquatic life of the state to their former condition.</p>

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Title	Statute	Language (excerpts)
Tennessee Safe Drinking Water Act (SDWA)	Tennessee Code Annotated § 68-221-713	<p>(a) (1) Any person who violates or fails to comply with any provision of this part, any order of the commissioner or the board issued pursuant to this part or any rule, regulation or standard adopted pursuant to this part is subject to a civil penalty of not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000) per day for each day of violation.</p> <p>(2) Each day such violation continues constitutes a separate violation.</p> <p>(3) In addition, such person shall also be liable for any damages to the state resulting therefrom, without regard to whether any civil penalty is assessed.</p> <p>...</p> <p>(d) In assessing a civil penalty, the following factors may be considered:</p> <p>(1) The harm done to the public health or the environment;</p> <p>(2) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;</p> <p>(3) The economic benefit gained by the violator;</p> <p>(4) The amount of effort put forth by the violator to remedy this violation;</p> <p>(5) Any unusual or extraordinary enforcement costs incurred by the commissioner; and</p> <p>(6) The amount of penalty set by the board for specific categories of violations.</p> <p>(e) Damages to the state may include any reasonable expenses incurred in investigating and enforcing violations of this part, or any other actual damages caused by the violation.</p>
Tennessee Water Quality Control Act (TWQCA)	Tennessee Code Annotated § 69-3-115	<p>(a) (1) Any person who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars (\$10,000) per day for each day during which the act or omission continues or occurs:</p> <p>(A) Violates an effluent standard or limitation or a water quality standard established under this part;</p> <p>(B) Violates the terms or conditions of a permit;</p> <p>(C) Fails to complete a filing requirement or causes false information to be filed with the department;</p> <p>(D) Fails to allow or perform an entry, inspection, monitoring, or reporting requirement;</p> <p>(E) Violates a final determination or order of the board, panel or commissioner;</p>

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Title	Statute	Language (excerpts)
		<p>(F) In the case of an industrial user of a publicly owned treatment works, fails to pay user or cost recovery charges or violates pretreatment standards or toxic effluent limitations established as a condition in the permit of the treatment works;</p> <p>(G) After reasonable notice and opportunity to restore a ditch constructed pursuant to § 69-3-130, the owner of the property fails to restore the ditch to permit specifications; or</p> <p>(H) Violates any other provision of this part or any rule or regulation promulgated by the board.</p> <p>...</p> <p>(a) (3) In assessing the civil penalty, the commissioner may consider the following factors:</p> <p>(A) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;</p> <p>(B) Damages to the state, including compensation for loss or destruction of wildlife, fish, and other aquatic life, resulting from the violation, as well as expenses involved in enforcing this section and the costs involved in rectifying any damage;</p> <p>(C) Cause of the discharge or violation;</p> <p>(D) The severity of the discharge and its effect upon the quality and quantity of the receiving waters;</p> <p>(E) Effectiveness of action taken by the violator to cease the violation;</p> <p>(F) The technical and economic reasonableness of reducing or eliminating the discharge;</p> <p>(G) The social and economic value of the discharge source; and</p> <p>(H) The economic benefit gained by the violator.</p>
Tennessee Water Quality Control Act (TWQCA)	Tennessee Code Annotated § 69-3-116	<p>(a) The commissioner may assess the liability of any polluter or violator for damages to the state resulting from any person's pollution or violation, failure, or neglect in complying with any rules, regulations, or standards of water quality promulgated by the board or permits, including failure by an in-lieu fee sponsor to timely complete land acquisition and initial physical and biological improvements, or orders issued pursuant to this part.</p> <p>...</p>

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Title	Statute	Language (excerpts)
		(c) Damages may include any expenses incurred in investigating and enforcing this part, in removing, correcting, and terminating any pollution, and compensation for any loss or destruction of wildlife, fish, or aquatic life and any other actual damages caused by the pollution or violation.
Tennessee Water Wells Act	Tennessee Code Annotated § 69-10-110	<p>(d) Any person who violates or fails to comply with any provision of this chapter, any order of the commissioner issued pursuant to this chapter, or any rule, regulation, or standard adopted pursuant to this chapter shall be subject to a civil penalty of not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000) per day for each day of violation. Each day such violation continues is a separate violation. In addition, such person shall also be liable for any damages to the state resulting from the violation, without regard to whether any civil penalty is assessed.</p> <p>...</p> <p>(f) In assessing a civil penalty, the following factors may be considered:</p> <ol style="list-style-type: none"> (1) The harm done or potential for harm to the public health or the environment; (2) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity; (3) The economic benefit gained by the violator; (4) The amount of effort put forth by the violator to remedy this violation; and (5) Any unusual or extraordinary enforcement costs incurred by the commissioner. <p>(g) Damages to the state may include any reasonable expenses incurred in investigating and enforcing violations of this chapter, or any other actual damages caused by the violation.</p>
Water And Wastewater Operator Certification Act	Tennessee Code Annotated § 68-221-904	<p>(c) (1) Additionally, any municipality, utility district, corporation or persons violating any provisions of this part, or the rules and regulations adopted thereunder, shall be subject to civil penalties up to ten thousand dollars (\$10,000) per day, for each day during which the violation occurs.</p> <p>(2) The commissioner has the duty and authority to levy civil penalties authorized in subdivision (c)(1), the duty and authority to issue orders requiring compliance with this part, and to hold show cause meetings with the persons or entities to whom the orders are proposed to be issued.</p>

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Title	Statute	Language (excerpts)
Tennessee Safe Dams Act	Tennessee Code Annotated § 69-11-121	<p>(a) Any person who violates or fails to comply with any provision of this chapter, any order of the commissioner issued pursuant to this chapter or any rule, regulation, or standard adopted pursuant to this chapter shall be subject to a civil penalty of not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000) per day for each day of violation. Each day such violation continues shall constitute a separate violation. In addition, such person shall also be liable for any damages to the state resulting from the violation, without regard to whether any civil penalty is assessed.</p> <p>...</p> <p>(d) In assessing a civil penalty, the following factors may be considered:</p> <ol style="list-style-type: none"> (1) The harm done or potential for harm to the public safety or the environment; (2) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity; (3) The economic benefit gained by the violator as a result of the violation; (4) The amount of effort put forth by the violator to remedy this violation; or (5) Any unusual or extraordinary enforcement costs incurred by the commissioner.
Production of Oil and Gas Act	Tennessee Code Annotated § 60-1-401	<p>(a) The Tennessee board of water quality, oil and gas through the supervisor shall have the authority to assess monetary penalties as provided in subsections (c)-(e) for any violation of this chapter, rules and regulations, or any order adopted by the board. In making such assessment, the board shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the operator charged, the gravity of the violation, the good faith of the operator, and the operator's history of previous violations.</p> <p>(b) If, upon an inspection or investigation, the supervisor or any of the supervisor's authorized personnel shall determine that any operator is not in compliance with any standard or regulation or rule or order of the board promulgated by the board pursuant to this chapter, the supervisor shall with reasonable promptness and in no event later than six (6) months following the inspection, issue</p>

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		<p>to the operator by certified mail a written citation that states the nature and, if appropriate, the location of the violation, including a reference to the provision of the chapter and the regulation alleged to have been violated. In addition, the citation shall fix a reasonable time for abatement of the violation. If the issuing supervisor has reason to believe that such violation, or the failure to abate such violation, should result in the assessment of a penalty under subsections (c)-(e), the citation may so state.</p> <p>(c) Any operator who has received a citation for a violation of this chapter, rules and regulations or order of the board, promulgated pursuant to this chapter and has failed to correct such violation within the period of correction of this citation, shall be assessed a penalty of up to one thousand dollars (\$1,000) for each day the violation exists. The period of correction may be suspended or lengthened by the assessing party upon a showing by the operator of a good faith effort to comply with the correction requirements and that failure to comply with the correction requirements is due to factors beyond the operator's reasonable control.</p> <p>(d) Any operator who has received a citation for a violation of this chapter, or rules and regulations or order of the board, and such violation is specifically determined not to be of a serious nature, may be assessed a penalty of up to one thousand dollars (\$1,000) for each such violation.</p> <p>(e) Any operator who willfully or repeatedly violates the requirements of this chapter, or rules and regulations, or order of the board promulgated pursuant to this chapter may be assessed a penalty of up to ten thousand dollars (\$10,000) for each violation.</p>

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Title	Statute	Language (excerpts)
Mineral Test Hole Regulatory Act	Tennessee Code Annotated § 60-1-509	(a) Any person or operator who violates any of this part or regulations adopted pursuant thereto, or who fails to perform the duties imposed by these provisions or who fails or refuses to obtain a permit as provided herein, or who violates any determination or order promulgated pursuant to this part is liable to a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each day during which such violation continues, and, in addition, may be enjoined from continuing such violation as hereinafter provided. The penalties shall be assessed and subject to appeal in accordance with § 60-1-401.
Tennessee Mineral Surface Mining Law	Tennessee Code Annotated § 59-8-117	(a) A permittee who violates this part, rules promulgated pursuant to this part, or any permit condition required by this part, may be assessed a civil penalty by the commissioner, except that if the violation leads to the issuance of a cessation order, a civil penalty must be assessed, and in either case, such permittee is also liable for any damages to the state resulting from the violation. A civil penalty assessed under this subsection (a) shall not exceed five thousand dollars (\$5,000) for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of assessing a civil penalty. In determining the amount of the penalty, the commissioner shall consider the history of previous violations by the permittee at the particular surface coal mining operation; the seriousness of the violation, including any irreparable harm to the environment and any danger to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation.

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Title	Statute	Language (excerpts)
Tennessee Mineral Surface Mining Law	Tennessee Code Annotated § 59-8-222	(a) Any person or operator who violates any of this part or regulations adopted pursuant thereto, or who fails to perform the duties imposed by these provisions or fails or refuses to obtain a permit as provided herein, or who violates any determination or order promulgated pursuant to this part, is liable to a civil penalty of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violation as hereinafter provided. Such penalties shall be recoverable in an action brought in the name of the state of Tennessee by the attorney general in the circuit court of Davidson County or in the circuit court having jurisdiction of the defendant, and all sums recovered shall be placed in the state treasury and credited to the Tennessee surface mining reclamation fund.