

CHAPTER 80**SOLID AND HAZARDOUS WASTE
INFORMATION AWARDS****Authority**

N.J.S.A. 13:1E-9.2; 13:1E-48.24; 13:1E-67b;
13:1E-191b and N.J.S.A. 58:10A-49c.

Source and Effective Date

R.1990 d.471, effective September 17, 1990.
See: 21 N.J.R. 2911(a), 22 N.J.R. 2999(a).

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**SUBCHAPTER 1. GUIDELINES FOR THE
IMPLEMENTATION OF THE SOLID AND
HAZARDOUS WASTE AWARD PROGRAMS****13:80-1.1 Purpose and authority**

(a) The purpose of this subchapter is to prescribe rules authorized by and pursuant to N.J.S.A. 13:1E-9.2, 48.24, 67b, 191b and N.J.S.A. 58:10A-49c, in order to implement the provisions of N.J.S.A. 13:1E-9.2, 48.24, 67a, 191a and N.J.S.A. 58:10A-49c, which respectively provide as follows:

1. N.J.S.A. 13:1E-9.2—A member of the public who supplies information to an enforcing authority which proximately results in the imposition and collection of a civil penalty as the result of a civil action brought pursuant to subsection f of section 9 of P.L. 1970, c.39 (N.J.S.A. 13:1E-9), or any code, rule, or regulation promulgated, administrative order issued, or assessment imposed pursuant thereto, shall be entitled to a reward of 10 percent of the civil penalty collected, or \$250.00, whichever amount is greater.

2. N.J.S.A. 13:1E-48.24—A member of the public who supplies information to an enforcing authority that proximately results in the imposition and collection of a civil penalty as a result of a civil action brought pursuant to subsection b of Section 20 of this act, or any rule or regulation adopted, administrative order issued, or assessment imposed pursuant thereto, or the imposition and collection of a criminal penalty as a result of a criminal action brought pursuant to subsections g, h, i or j of Section 20 of this act, shall be entitled to a reward of 10 percent of the penalty collected or \$250.00, whichever amount is greater.

3. N.J.S.A. 13:1E-67a—Any person who supplies any information which proximately results in the arrest and conviction of any other person for the illegal treatment, storage or disposal of hazardous waste shall be awarded one-half of any penalty collected as a result thereof.

4. N.J.S.A. 58:10A-49c—Any person who provides information to an enforcing authority concerning a violation of this act that proximately results in the imposition and collection of a criminal penalty as a result of a criminal action brought pursuant to this act shall be entitled to a reward of 10 percent of the penalty collected.

5. N.J.S.A. 13:1E-191a—Any person who supplies any information which proximately results in the arrest and conviction of any other person for the illegal treatment, storage or disposal of low-level radioactive waste shall be awarded one-half of any penalty collected as a result thereof.

13:80-1.2 Definitions

For the purpose of this subchapter, the terms set forth in N.J.S.A. 13:1E-67a, N.J.S.A. 13:1E-191a, N.J.S.A. 58:10A-49, N.J.S.A. 13:1E-48.24 and N.J.S.A. 13:1E-9.2, are defined as follows:

“Information which proximately results” means information which in an ordinary natural sequence results in either an arrest, conviction and imposition and collection of a criminal fine or the imposition and collection of a civil penalty. For the purposes of award eligibility, in no case shall this term include information obtained exclusively from any public record or received as a result of either a plea bargain or compulsory legal process.

“Penalty” means any fine imposed for any criminal conviction for the illegal treatment, storage or disposal of hazardous or low-level radioactive waste; illegal treatment, storage, transportation or disposal of medical waste; or illegal discharge of certain material into the ocean waters; any penalty imposed pursuant to any civil action brought for the illegal treatment, storage, transportation or disposal of solid, hazardous or medical waste; or any penalties assessed for violating an administrative order or court order, or

failure to pay in full an administrative assessment filed pursuant to N.J.S.A. 13:1E-9.2 and 48.24.

“Person” means any natural person or any corporation, partnership or other form of business association, but, for purposes of award eligibility, in no case shall this term include any public employee, his immediate family or any persons residing within the public employee’s household, or any State, county or municipal entity whose duty it is to insure compliance with, investigate or enforce these laws and regulations.

13:80-1.3 Responsibility

The Office of the Environmental Prosecutor has been designated by the Attorney General the responsibility of receiving and considering information pursuant to the provisions of N.J.S.A. 13:1E-9.2, 48.24, 191a and 67a and N.J.S.A. 58:10A-49. The Office of the Environmental Prosecutor shall be responsible for reviewing applications for awards and determining whether or not any application should be approved and award granted. In the performance of these functions, the Office of the Environmental Prosecutor is authorized to propose and adopt guidelines and procedures, such as those set forth herein, for the processing of applications under this section. The Office of the Environmental Prosecutor is further authorized to establish committees which will assist in the administration of this award program.

13:80-1.4 Application procedure—criminal

(a) An application in a criminal proceeding requires the completion of Information Form OEP 13-58 prescribed by the Office of the Environmental Prosecutor. This form must be completed and signed by personal appearance of the applicant (or in the case of an entity, its authorized representative), at the Office of the Environmental Prosecutor at the Richard J. Hughes Justice Complex, Trenton, New Jersey, or at the county prosecutor’s office in the county where the alleged offense occurred. The county prosecutor’s office shall forward a copy of each completed application to the Office of the Environmental Prosecutor within 15 days of receipt.

(b) The person submitting the information may, at the discretion of the Office of the Environmental Prosecutor, be interviewed by the Division of Criminal Justice or Department of Environmental Protection with regard to the information the applicant is submitting for consideration. An applicant may also be required to give his or her verbal statement under oath and sign a written memorialization of his or her statement.

(c) The Office of the Environmental Prosecutor shall acknowledge to the applicant, in writing, receipt of his or her application.

(d) In any legal proceeding conducted exclusively by a county prosecutor’s office, wherein an application has been submitted pursuant to this section, and which results in an arrest, conviction and imposition and collection of a criminal penalty for the illegal treatment, storage or disposal of hazardous or low-level radioactive waste; for the illegal discharge of certain material into ocean waters; or for the illegal treatment, storage, transportation or disposal of medical waste, the prosecutor’s office, upon sentencing of the convicted person, shall, within 15 days thereof, forward written notification to the Office of the Environmental Prosecutor of any fines imposed for the purpose of processing any pending award application under this subchapter.

13:80-1.5 Application procedure—civil

(a) An application in a civil proceeding requires the completion of Information Form OEP 13-58A prescribed by the Office of the Environmental Prosecutor. This form must be completed and signed by personal appearance of the applicant (or in the case of an entity, its authorized representative), at the Office of the Environmental Prosecutor at the Richard J. Hughes Justice Complex, Trenton, New Jersey or at the county health department in the county where the offense occurred. The county health department shall forward a copy of each completed application to the Office of the Environmental Prosecutor and the Department of Environmental Protection within 15 days of receipt.

(b) The Office of the Environmental Prosecutor shall acknowledge to the applicant, in writing, receipt of his or her application.

(c) In any civil action conducted by the Department of Environmental Protection, local board of health or county health department, wherein an application was submitted pursuant to this section, which results in the imposition and collection of civil penalties for the illegal treatment, storage, transportation and disposal of solid, hazardous or medical waste, or a violation of an administrative order or court order, or the failure to pay an administrative assessment in full, the DEP, local board of health or county health department, as the case may be, shall, within 15 days thereof, forward to the Office of the Environmental Prosecutor written notification of the penalties imposed for the purpose of processing any pending award application.

13:80-1.6 Timely filing of applications for award

In all cases, civil and criminal, where relevant information is provided by a person without the simultaneous filing of an application pursuant to this subchapter, that person may subsequently file an application for award consideration no later than 10 days from the date on which the person provided the information.

13:80-1.7 Confidentiality

Upon request of the applicant at the time the application is made, the Office of the Environmental Prosecutor and any other governmental agency involved in the criminal or civil proceeding shall not disclose the identity of the applicant or any information supplied by the applicant. This is subject, however, to any statute, Rule of Court or judicial decision which may require divulgence of such identity or information to certain parties including, in certain circumstances, a criminal defendant.

13:80-1.8 Collection of fines and penalties

(a) The collection and payment of criminal fines and penalties relevant to the implementation of this subchapter shall be conducted pursuant to the provisions of N.J.S.A. 2C:46-4.

(b) In any criminal prosecution for the illegal treatment, storage or disposal of hazardous waste; the illegal treatment, storage or disposal of low-level radioactive waste; the illegal discharge of certain material into ocean waters; or the illegal treatment, storage, transportation or disposal of medical waste, it shall be the responsibility of the prosecuting agency to inform the Court that any penalties imposed are subject to the award program created by N.J.S.A. 13:1E-67a, 191a and 48.24 and N.J.S.A. 58:10A-49c, and to request that the Court order any penalties to be held in escrow pending resolution of award eligibility pursuant to N.J.S.A. 2A:58-8.

(c) In any civil or administrative proceeding wherein an application has been submitted pursuant to this subchapter, it shall be the responsibility of the governmental entity seeking the penalty to inform the judicial or administrative forum hearing the matter that any penalties imposed are subject to the award program created by N.J.S.A. 13:1E-9.2 and 48.24 and N.J.S.A. 58:10A-49.

13:80-1.9 Determination and notification of eligibility for awards

(a) Upon the arrest, conviction and imposition and collection of a criminal fine for the illegal treatment, storage or disposal of hazardous or low-level radioactive waste; for illegal discharge of certain material into the ocean waters; or for the illegal treatment, storage, transportation and disposal of medical waste; or the imposition and collection of a civil penalty for the illegal treatment, storage, transportation or disposal of solid, hazardous or medical waste; violation of administrative or court orders; or failure to pay an administrative assessment in full, filed pursuant to N.J.S.A. 13:1E-9 and 48, the Office of the Environmental Prosecutor, if it has reviewed information pursuant to this subchapter, shall notify the applicant within 60 days of the date of collection of such criminal fine or civil penalty as to its determination of the eligibility of the applicant for an award pursuant to N.J.S.A. 13:1E-9.2, 48.24, 191a or 67a, or N.J.S.A. 58:10A-49c, as the case may be.

(b) Written notification shall contain the specific reasons for a determination and inform the applicant that:

1. There is insufficient causal relationship between the information provided and either the arrest, conviction, imposition and collection of the criminal fine or the imposition and collection of the civil penalty; or

2. The information provided proximately resulted in either an arrest, conviction and the imposition and collection of a criminal fine or imposition and collection of a civil penalty, and the applicant is therefore eligible for an award; or

3. There is a need for further examination of the application necessitating a written response and/or personal appearance of the applicant for further information before a determination as to eligibility can be made.

13:80-1.10 Post-determination claiming and payment of awards

(a) Within 20 days of receipt of a notification of award eligibility pursuant to N.J.A.C. 13:80-1.9, the applicant shall make a formal claim for such award by forwarding to the Office of the Environmental Prosecutor a written acknowledgment of the notification and request for the award.

(b) Where the applicant's information proximately resulted in either the arrest and conviction or the institution of the civil action and imposition of the civil penalty, the award shall thereafter be paid to the successful applicant upon collection of, as the case may be, the fine from the person arrested and convicted of the illegal treatment, storage or disposal of hazardous or low-level radioactive waste; the illegal discharge of certain material into ocean waters; or the illegal treatment, storage, transportation or disposal of medical waste; or the civil penalty for the illegal treatment, storage, transportation or disposal of solid, hazardous or medical waste; or fines assessed for violating an administrative order or court order; or for failing to pay in full an administrative assessment.

(c) Payment of an award pursuant to this section is contingent upon the actual collection of fines or penalties. No award can be paid in an amount in excess of what is actually collected as a fine except when collected pursuant to N.J.S.A. 13:1E-9.2 and N.J.S.A. 13:1E-48.24, which provide a minimum award of \$250.00. In no case can the applicant receive any award until the entire fine or penalty has been collected.

13:80-1.11 Plea bargains

Except when a contrary result is required to prevent manifest injustice, if a person supplies information which proximately results in the arrest of and institution of criminal charges against any other person for the illegal treatment, storage or disposal of hazardous or low-level radioactive waste; for the illegal discharge of certain material into ocean waters; or for the illegal treatment, storage, transportation or disposal of medical waste, and in the discretion of the Office of the Environmental Prosecutor or county prosecutor's office, those charges are subsequently dismissed as part of a plea bargain, there shall be no eligibility pursuant to this subchapter for any award from any fine imposed upon any other charges and/or violations alleged in the same proceeding.

13:80-1.12 Multiple applications

(a) Except when a contrary result is required to prevent manifest injustice, in cases where two or more applicants submit substantially identical information which proximately results in the arrest, conviction and imposition and collection of a fine for the illegal treatment, storage or disposal of hazardous or low-level radioactive waste; for the illegal discharge of certain material into ocean waters; or for the illegal treatment, storage, transportation or disposal of medical waste; or the institution of the civil action and imposition of a civil penalty for the illegal treatment, storage, transportation or disposal of solid, hazardous or medical waste; or fines assessed for violating an administrative order or court order; or for failing to pay in full an administrative assessment, only the person who has filed his application first in time shall be considered for the receipt of an award pursuant to this subchapter.

(b) In cases where two or more applicants submit different information which proximately results in either the arrest, conviction and imposition and collection of a fine for the illegal treatment, storage or disposal of hazardous or low-level radioactive waste; for the illegal discharge of certain material into ocean waters; or for the illegal treatment, storage, transportation or disposal of medical waste; or the institution of the civil action and imposition of the civil penalty for the illegal treatment, storage, transportation or disposal of solid, hazardous or medical waste; or penalties assessed for violating an administrative order or court order; or for failing to pay in full an administrative assessment, thereby rendering both applicants eligible for an award pursuant to this subchapter, the Office of the Environmental Prosecutor may apportion the amount of award available among the applicants based upon its consideration of relevant factors including, but not limited to:

1. The timing (chronological order) of each application filed;
2. The relative overall accuracy of information in each application filed; and
3. The relative extent of cooperation with the prosecution by each applicant in the particular case for which the information has been provided.

(c) Upon such apportionment set forth in (b) above, the Office of the Environmental Prosecutor shall provide each eligible applicant with a written statement of its reasons for its determination.

13:80-1.13 Appeals

All decisions regarding award eligibility shall be reviewed and approved by the Office of the Environmental Prosecutor, upon whose approval the decision shall constitute a final agency determination for purposes of this section. Any final agency determination as to award eligibility pursuant to this section shall be reviewable as a contested case by the Office of Administrative Law according to the procedures set forth in the Administrative Procedure Act, N.J.S.A. 52:14B-1 and 52:14F-1 and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.