

Environmental Crimes Handbook 2006



Zulima V. Farber
Attorney General

Gregory A. Paw, Director
Division of Criminal Justice



A Guide for
Law Enforcement Personnel

ENVIRONMENTAL CRIMES HANDBOOK

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State of New Jersey
Department of Law and Public Safety
Division of Criminal Justice

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The Environmental Crimes Bureau of the Division of Criminal Justice (ENVIRONMENTAL CRIMES BUREAU) has developed this manual so that law enforcement officers in New Jersey will be able to have quick, ready access to the State's environmental criminal statutes.

The manual outlines the criminal provisions for:

- 1) Water Pollution
- 2) Hazardous Waste
- 3) Regulated Medical Waste
- 4) Solid Waste
- 5) Wetlands
- 6) Air Pollution
- 7) Public Safety

The ENVIRONMENTAL CRIMES BUREAU hopes that this manual will assist you in your efforts to respond to potential environmental crimes in your jurisdiction. As with any crime scene, the patrol officer's primary duty is to protect the scene. You should carefully note what you observe at an environmental crime scene, just as you would with any other crime scene - including taking photographs. The techniques used in the processing of an environmental crime scene are similar to those used in traditional crimes, with one very important exception:

DO NOT TRY TO HANDLE POTENTIALLY HAZARDOUS MATERIALS OR UNKNOWN SUBSTANCES WITHOUT HAVING THE PROPER TRAINING.

IF YOU ENCOUNTER POTENTIALLY HAZARDOUS MATERIALS OR UNKNOWN SUBSTANCES, CONTACT THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION (24 HR. HOTLINE 1-877-WARNDEP) OR YOUR LOCAL COUNTY HAZ MAT.

**IF YOU SUSPECT A CRIMINAL VIOLATION,
CONTACT YOUR COUNTY PROSECUTOR'S OFFICE OR
THE NEW JERSEY DIVISION OF CRIMINAL JUSTICE
ENVIRONMENTAL CRIMES BUREAU
(609) 984-4470**

I. **CLEAN WATER ENFORCEMENT ACT**
N.J.S.A. 58:10A-1 et seq.

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
<i>58:10A-10f(1)</i> violates this act, ¹ and causes a significant adverse environmental effect	knowingly purposely recklessly	second [\$25,000 to \$250,000 fine per day of violation]
<i>58:10A-10f(4)</i> violates an effluent limitation or other condition of a permit, or discharge without a permit, and knows that he thereby places another person in imminent danger of death or serious bodily injury	purposely knowingly	first [\$50,000 to \$250,000 fine 10-20 years imprisonment] [for corp., \$200,000 to \$1,000,000 fine]

¹ **N.J.S.A. 58:10A-6a & b** provide:

It shall be unlawful for any person to:

- discharge any pollutant, except in conformity with a valid New Jersey Pollution Discharge Elimination System (NJPDES) permit that has been issued by the NJDEP or valid permit issued by the USEPA.
- build, install, modify, or operate any facility for the collection, treatment or discharge of any pollutant except after approval by the NJDEP.

It should be noted that under N.J.S.A. 58:10A-6a, it is a crime to discharge pollutants into surface waters, underground waters, or sewer systems without a NJDEP permit [or in case of sewers, municipal utility authority permit] or in violation of the requirements of such a permit.

Material Elements

Culpability

Degree

58:10A-10f(2)

violates this act including:

- making any false statement, representation or certification in any application, record or document filed or required to be maintained under this Act;
- falsifying, tampering with or rendering inaccurate any monitoring device or method required to be maintained pursuant to this Act;
- failing to submit a monitoring report, or any portion thereof, required pursuant to this Act

purposely
knowingly
recklessly

third
[\$5000 to
\$75,000 per
day of
Violation]

58:10A-10f(3)

violates any portion of this Act

negligently

fourth
[\$5000 to
\$50,000 per
day of
violation]

58:10A-49a

dumps material (defined at N.J.S.A. 58:10A-48) into the ocean waters within the jurisdiction of this state or into the waters outside the jurisdiction of this state, which material enters the ocean waters within the jurisdiction of this State

intentionally
[purposely]

third

II. HAZARDOUS WASTE/HAZARDOUS SUBSTANCES/TOXIC POLLUTANTS

A. **Causing or Risking Widespread Injury or Damage** **N.J.S.A. 2C:17-2 and 3**

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
2C:17-2a(1) unlawfully causes an explosion, flood, avalanche, collapse of building, release or abandonment of poison gas, radioactive material or any other harmful or destructive substance	purposely knowingly	second
2C:17-2a(2) unlawfully cause a release or abandonment of hazardous waste ² or toxic pollutants ³	purposely knowingly OR recklessly	second third
2C:17-2a(2) unlawfully causes a hazardous discharge ⁴ required to be reported under the New Jersey Spill Compensation and Control Act	purposely knowingly OR recklessly	second third

² Under New Jersey's environmental regulations, in order for material to be subject to hazardous waste regulations, it must be a solid waste [which could be a liquid]. Chemical products that are not wastes are not regulated by the hazardous waste regulations.

³ Under New Jersey's environmental regulations, certain chemical compounds are listed as toxic pollutants; e.g. asbestos, pcb's, dioxins and cyanides.

⁴ Under New Jersey's environmental statutes and regulations, a hazardous discharge would include a discharge of petroleum products.

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
2C:17-2b causes widespread injury or damage	recklessly	third
2C:17-2c creates the risk of widespread injury or damage (no injury or damage has to occur)	recklessly	fourth
2C:17-3a(1) damages the tangible property of another;	purposely knowingly	third [if purposely causes loss of \$2000 or more]
damages tangible property of another in the employment of fire, explosives, other dangerous means	recklessly negligently	fourth [loss above \$500 up to \$2000]
2C:17-3a(2) tampers with the property of another so as to endanger person or property	purposely recklessly	third [loss over \$2000] fourth [loss over \$500]

**B. Solid Waste Management Act
N.J.S.A. 13:1E-1 et seq.**

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
13:1E-9g(1) 13:1E-9h(1) transports any hazardous waste to a location which does have authorization from the NJDEP to receive it	knowingly	third [\$50,000 fine first offense; \$100,000 subsequent offense]
	recklessly	fourth

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
<p>13:1E-9g(2) 13:1E-9h(2) generates and causes or permits to be transported hazardous waste to a location which does not have authorization from the NJDEP to receive it</p>	<p>knowingly</p> <p>recklessly</p>	<p>third [\$50,000 fine first offense; \$100,000 subsequent offense]</p> <p>fourth</p>
<p>13:1E-9g(3) 13:1E-9h(3) disposes, treats, stores or transports hazardous waste without authorization from the NJDEP</p>	<p>knowingly</p> <p>recklessly</p>	<p>third [\$50,000 fine first offense; \$100,000 subsequent offense]</p> <p>fourth</p>
<p>13:1E-9g(4) & (5) 12:1E-9h(4) & (5) <ul style="list-style-type: none"> • makes any false or misleading statements to any person who prepares any hazardous waste application label, manifest, record, report, design, or other document required to be submitted to the NJDEP; • makes any false or misleading statement on any hazardous waste application, label, manifest, record, report, design, or document required to be submitted to NJDEP; </p>	<p>knowingly</p> <p>recklessly</p>	<p>third [\$50,000 fine first offense; \$100,000 second offense]</p> <p>fourth</p>
<p><u>N.J.S.A. 13:1E-9i</u> generates and causes or permits hazardous waste to be transported, transports, or receives hazardous waste without completing and submitting a hazardous waste manifest to the NJDEP</p>	<p>strict liability</p>	<p>fourth</p>

III. **REGULATED MEDICAL WASTE N.J.S.A. 13:1E-48.20-1 et seq.**

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
<p>13:1E-48.20g(1) disposes or stores regulated medical waste⁵ without authorization from either the NJDEP or the New Jersey Department of Health (NJDOH), or does so in violation of this act or any regulation adopted pursuant thereto</p>	<p>purposely knowingly</p>	<p>third [\$50,000 first offense; \$100,000 second offense]</p>
<p>13:1E-48.20g(2) & (3) •makes any false or misleading statement on any regulated medical waste form or report, required by this act or any regulation adopted pursuant thereto; •makes any false or misleading statement to any person who prepares any regulated medical waste form or report, required by this act or any regulation adopted pursuant thereto</p>	<p>purposely knowingly</p>	<p>third [\$50,000 first offense; \$100,000 second offense]</p>
<p>13:1E-48.20g(4) fails to properly treat certain types of regulated medical waste designated by the NJDOH, in a prescribed manner</p>	<p>purposely knowingly</p>	<p>third [\$50,000 first offense; \$100,000 second offense]</p>

⁵ Under New Jersey’s environmental regulations, regulated medical waste includes the following types of material:
cultures and stocks; pathological wastes; human blood and blood products; sharps (used or unused); animal waste, e.g. carcasses or body parts; and isolation wastes.

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
13:1E-48.20h(1) material elements same as 12:1E-48.20g(1)	recklessly	fourth
13:1E-48.20h(2) & (3) material elements same as 13:1E-48.20g(2) & (3)	recklessly negligently	fourth
12:1E-48.20h(4) material elements same as 13:1E-48.20g(4)	recklessly	fourth
13:1E-28.20i(1) transports any regulated medical waste to any place that does not have authorization from the NJDEP and the NJBPU to accept such waste, or does so in violation of this act or any regulation adopted pursuant thereto	regardless of intent (strict liability)	fourth
13:1E-48.20i(2) transports or receives regulated medical waste without completing and submitting a manifest in accordance with this act or any regulation adopted pursuant thereto	regardless of intent (strict liability)	fourth
13:1E-48.20j(1) generates regulated medical waste and permits it to be transported to any place that does not have authorization from the NJDEP and the NJBPU to accept it, or does so in violation of this act or regulation adopted pursuant thereto	purposely knowingly recklessly	fourth

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
13:1E-48.20j(2) violates any other provision of this act, or any regulation adopted pursuant thereto, for which no other criminal penalty has been specifically provided	purposely knowingly recklessly	fourth

**IV. FRESHWATER WETLANDS PROTECTION ACT
N.J.S.A. 13:9B-1 et seq.**

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
13:9B-21f violates this act, including: dumping any material; removing any soil; or disturbing the water level in a freshwater wetland without a permit from NJDEP	willfully or negligently	fourth [fine between \$2500 and \$25,000 per day first offense; \$5000 to \$50,000 per day thereafter]
13:9B-21f makes false statement in any document filed or required to be maintained under this act; or falsifies, tampers with or knowingly renders inaccurate, any monitoring device or method required to be maintained pursuant to this act	knowingly	fourth [\$10,000 fine]

V. **SOLID WASTE**

A. **N.J.S.A. 13:1E-9**

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
<p>13:1E-9.3</p> <ul style="list-style-type: none"> •collects or disposes of solid waste in excess of 0.148 cubic yards of solids or 30 gallons of liquids, at any place not authorized by NJDEP or NJBPU to accept solid waste; •transports or causes to be transported any solid waste, in excess of 0.148 cubic yards of solids or 30 gallons of liquids, to any place not authorized by NJDEP or NJBPU to accept solid waste 	<p>regardless of intent (strict liability)</p>	<p>disorderly persons [fine minimum of \$2500 per day first offense; maximum \$5,000 per day second offense; maximum \$10,000 per day thereafter]</p>
<p>13:1E-9.6a (1) & (2)⁶</p> <p>disposes of solid waste, or causes or permits the disposal of solid waste in this State</p> <p style="text-align: center;">OR</p> <p>transports or causes or permits to be transported an amount of at least 1,000 cubic yards of solids, or at least 10,000 gallons of liquids, for profit or otherwise, at or to a place not authorized by DEP</p>	<p>knowingly</p>	<p>second</p>
<p>13:1E-9.6b (1) & (2)</p> <p>disposes of solid waste or causes or permits the disposal of solid waste in this State,</p>	<p>recklessly</p>	<p>third [\$50,000 fine]</p>

⁶ The quantity of solid waste involved in offenses committed pursuant to one scheme, whether at one or several locations, may be aggregated for determining degree.

OR

transports or causes or permits to be transported solid waste in an amount of at least 100 cubic yards of solids, or at least 1,000 gallons of liquids, whether for profit or otherwise, at or to a place not authorized by DEP

13:1E-9.6b (3) & (4)

disposes of solid waste, or causes or permits the disposal of solid waste in this State,

knowingly

third
[\$50,000 fine]

OR

transports or causes or permits to be transported solid waste in an amount of at least 10, but less than 100 cubic yards of solids, or at least 250 but less than 1,000 gallons of liquids, whether for profit or otherwise, at or to a place not authorized by DEP

13:1E-9.6c

disposes of solid waste, or causes or permits the disposal of solid waste in this State,

recklessly

fourth
[\$25,000 fine]

OR

transports or causes or permits to be transported solid waste in an amount of at least 10 cubic yards, but less than 100 cubic yards of solids, or at least 250, but less than 1,000 gallons of liquids, whether for profit or otherwise, at or to a place not authorized by DEP

13:1E-9.6d

knowingly or recklessly engages in the collection of solid waste, for profit or otherwise.

third [100 cubic yards or more/
1,000 gallons or more]

fourth [10 to 100 cubic yards/250 to 1,000 gallons]

B. N.J.S.A. 48:13A-1 et seq.

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
<p>48:13A-12a violates any provision of the Solid Waste Utility Control Act, including:</p> <ul style="list-style-type: none">•engaging in the business of solid waste collection or disposal without a certificate of public convenience and necessity from NJBPU [48:13A-6];•operating a solid waste landfill without a tariff, or in violation of the conditions of a tariff, from NJBPU [48:13A-6.1];•operating a solid waste transfer station without a certificate of public convenience and necessity and a tariff from NJBPU [48:13A-6.2].	knowingly	fourth [\$50,000 fine]
<p>48:13A-12.1 & 12.2 utilize a vehicle registered for solid waste transportation to transport fresh food or fresh food products intended for human consumption, unless the vehicle has been sanitized according to NJDEP regulations</p>	knowingly	third [fine \$7500 first offense; \$10,000 second offense; \$25,000 thereafter]

VI. AIR POLLUTION CONTROL ACT N.J.S.A. 26:2C-1 et seq.

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
26:2C-19f(1) violates any part of the Air Pollution Control Act, or any regulation, administrative order, or court order issued pursuant thereto	purposely	third
26:2C-19f(2) violates any condition of an operating permit, or violates any federal air pollution control requirement	purposely or knowingly	third [fine \$10,000 per day]
26:2C-19f(3) makes any false material statement in any form or report required by an operating permit, OR renders inaccurate any monitoring device or method required by an operating permit	purposely OR knowingly	third [fine \$10,000 per day]
26:2C-19f(4) violates any part of the Air Pollution Control Act, or any regulation, administrative order, or court order issued pursuant thereto	recklessly	fourth

VII. PUBLIC SAFETY

<u>Material Elements</u>	<u>Culpability</u>	<u>Degree</u>
2C:17-2c recklessly creates the risk of widespread injury or damage from the reckless handling or storage of hazardous materials		third

Material Elements

Culpability

Degree

OR
through the reckless handling
or storage of hazardous
materials and violates any law,
rule or regulation intended to
protect public health and safety⁷

second

2C:40-18

knowingly violates a law
intended to protect the public
health and safety or knowingly
fails to perform a duty imposed
by a law intended to protect the
public health and safety and
recklessly causes death

second

OR
knowingly violates a law
intended to protect public health
and safety or knowingly fails to
perform a duty imposed by law
intended to protect public health
and safety and recklessly causes
serious bodily injury

third

OR
knowingly violates a law
intended to protect the public health
and safety or knowingly fails to
perform a duty imposed by a law
intended to protect the public health
and safety and recklessly causes
significant bodily injury

fourth

⁷ Widespread injury is defined as serious bodily injury to five or more people or five or more habitations or to a building that would normally have contained 25 or more persons. N.J.S.A. 2C:17-2e

