



2 of 2 DOCUMENTS

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**RULE PROPOSALS**

**LAW AND PUBLIC SAFETY  
DIVISION OF CRIMINAL JUSTICE**

43 N.J.R. 154(a)

**Proposed Readoption: N.J.A.C. 13:80**

[Click here to view Interested Persons Statement](#)

**Solid Waste, Medical Waste, Hazardous Waste, Low-Level Radioactive Waste and Ocean Dumping Information Awards**

Authorized By: Paula T. Dow, Attorney General.

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

Calendar Reference: See Summary below for explanation of exception to the calendar requirement.

Proposal Number: PRN 2011-018.

Submit written comments via overnight or regular mail *only* by March 19, 2011 to:

SDAG Eleanor R. Miller  
Division of Criminal Justice  
P.O. Box 085  
Trenton, New Jersey 08625  
Attention: Solid Waste, Medical Waste, Hazardous Waste, Low-Level Radioactive Waste and Ocean Dumping Information Awards (Public Comments)

No submissions via electronic mail will be accepted. All submissions must contain a return mailing address.

The agency proposal follows:

## Summary

The Attorney General proposes to readopt the Solid and Hazardous Waste Information Awards rules, N.J.A.C. 13:80. Pursuant to N.J.S.A. 52:14B-5.1 and Executive Order No. 66 (1978), the rules in this chapter are scheduled to expire on January 13, 2011. In accordance with N.J.S.A. 52:14B-5.1c., the submission of this notice of proposal to the Office of Administrative Law extends that expiration date 180 days to July 12, 2011.

Between 1981 and 1989, the Legislature enacted legislation to regulate pollution caused by the improper treatment, storage, transportation and disposal of solid, hazardous and medical waste, as well as improper discharges into the ocean waters. All of these statutes provide for an award program for citizen information that leads to the imposition of a criminal fine and/or civil penalty. Each statute, N.J.S.A. 13:1E-9.2 (Solid Waste), 13:1E-48.24 (Medical Waste), 13:1E-67b (Hazardous Waste) and 58:10A-49c (Ocean Dumping), directs the Attorney General to promulgate rules to carry out this program. To comply with these legislative mandates, the rules proposed for readoption have provided uniform procedures and guidelines for information award programs under all of these statutes.

The rules proposed for readoption offer monetary rewards to the public for reporting perceived violations of the improper transportation or disposal of solid, hazardous, low-level radioactive or regulated medical waste or improper discharges into our ocean waters. The Attorney General has reviewed these rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated as mandated by N.J.S.A. 13:1E-9.2, 48.24, 67b and 191b and 58:10A-49c. Continuation of these rules will ensure consistency in the administration of the awards program and ensure confidentiality of the applicants, when requested. The rules proposed for readoption provide for the uniform administration of an award program for citizen information that leads to the imposition and collection of a criminal fine and/or civil penalty. Because the Attorney General provides a 60-day comment period, this notice is excepted from the rulemaking calendar requirement of N.J.A.C. 1:30-3.3(a)5.

The Attorney General now proposes to readopt the existing rules with no amendments. A summary of each section of the chapter proposed for readoption follows:

N.J.A.C. 13:80-1.1 sets forth the purpose of the rules, pursuant to the various authorizing statutory authorities.

N.J.A.C. 13:80-1.2 contains the definitions for the terms employed throughout the entire body of the information awards regulatory scheme.

N.J.A.C. 13:80-1.3 discusses the roles that are played by the Division of Criminal Justice and by the Attorney General's designee in processing filed applications.

N.J.A.C. 13:80-1.4 describes the application procedures when the matter involves a criminal prosecution.

N.J.A.C. 13:80-1.5 describes the application procedures when the matter involves a civil action.

N.J.A.C. 13:80-1.6 sets forth the time frame for the filing of all applications for award money.

N.J.A.C. 13:80-1.7 sets forth the confidentiality protections that are offered to all applicants.

N.J.A.C. 13:80-1.8 sets forth mechanisms for insuring that monies collected are held in escrow pending the decision as to eligibility for an award.

N.J.A.C. 13:80-1.9 sets forth the procedures that the Attorney General's designee must follow to notify applicants of action taken.

N.J.A.C. 13:80-1.10 sets forth the procedures that must be taken by an applicant to claim an award after the applicant is notified of his or her eligibility.

N.J.A.C. 13:80-1.11 sets forth the limitations on eligibility when a plea bargain agreement results in the dismissal of charges.

N.J.A.C. 13:80-1.12 sets forth the mechanisms for processing multiple applicants for award money.

N.J.A.C. 13:80-1.13 sets forth the mechanisms to appeal a decision.

### **Social Impact**

The Legislature declared that the improper treatment, storage, transportation or disposal of solid, hazardous or medical waste or improper discharges into our ocean waters results in substantial impairment of the environment and danger to the public health. The Legislature determined that insuring the proper treatment, storage, transportation and disposal of solid, hazardous and medical waste, as well [page=155] as regulating discharges into the ocean waters, serves a public purpose in the best interest of all citizens of this State.

The rules proposed for readoption have increased public awareness of violations that affect the environment and afforded the public an opportunity to receive monetary rewards for reporting perceived violations of the improper transportation or disposal of solid, hazardous, low-level radioactive or regulated medical waste or improper discharges into our ocean waters. They have also provided environmental enforcement agencies with another source for investigative leads into potential environmental violations, both criminal and civil.

Continuation of the award program provides an incentive for the public to report perceived violations, and will enhance the efforts of law enforcement and regulatory authorities to detect, apprehend, penalize and convict persons involved in the illegal treatment, storage, transportation or disposal of solid, hazardous or medical waste, or the illegal discharge of certain material into ocean waters.

Heightened public awareness and scrutiny of the treatment, storage, transportation or disposal of solid, hazardous or medical waste, and the discharge of certain material into the ocean waters as a result of this award program, has served as a deterrent to potential violators of the law in this regard. The social impact has been positive and will continue under the rules proposed for readoption.

### **Economic Impact**

Readoption of the existing rules will continue offering a monetary incentive for the public to report perceived improper treatment, storage, transportation or disposal of solid, hazardous, low-level radioactive or regulated medical waste and perceived improper discharges into ocean waters. This program is self-sustaining and requires no legislative appropriations for its implementation.

There are no filing fees or any expenses incurred by the public. Pursuant to the laws authorizing these rules, 10 percent of all penalties collected as a result of the institution of a civil action and imposition of a civil penalty against persons for the illegal treatment, storage, transportation or disposal of solid, hazardous or regulated medical waste would become subject to distribution through this award program. In criminal cases in which a fine or penalty is collected as a result of an arrest and conviction for the illegal treatment, storage, transportation or disposal of regulated medical waste or illegal discharges into the ocean water, the law also authorizes 10 percent of the fines to be paid through the award's criminal program, but in cases involving an arrest and conviction for the illegal treatment, storage or disposal of hazardous waste or the illegal treatment, transport, storage or disposal of low-level radioactive waste, it allows for distribution of one-half of the fines collected.

### **Federal Standards Statement**

A Federal standards analysis is not required because the rules proposed for readoption were not issued under the authority of any Federal law or State statute that incorporates or refers to Federal law, Federal standards or Federal

requirements; or to implement, comply with or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards or Federal requirements.

**Jobs Impact**

The rules proposed for reoption will not result in the generation or loss of any jobs.

**Agriculture Industry Impact**

The rules proposed for reoption will not have any impact on the agricultural industry in New Jersey or elsewhere.

**Regulatory Flexibility Statement**

The rules proposed for reoption impose no reporting, recordkeeping or compliance requirements upon small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules do not impact small businesses. While a small business may be eligible for an award under the program, providing information is a voluntary act and the application requirements are the minimum necessary.

**Smart Growth Impact**

The rules proposed for reoption will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

**Housing Affordability Impact**

The rules proposed for reoption will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules concern an award program.

**Smart Growth Development Impact**

The rules proposed for reoption will have an insignificant impact on smart growth development. There is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules concern an award program.

**Full text** of the rules proposed for reoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:80.