CHAPTER 48

Crimes Related to the Environment

- Promulgated on March 29, 2021. Effective on July 1, 2021.
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This guideline applies to adult offenders (nineteen years of age or older) who have committed any of the following provisions:

[Wastes Control Act]

- Article 63, subparagraph 1 (disposing industrial wastes in violation of Article 8, paragraph 1[1]), subparagraph 2 (burying or incinerating industrial wastes in violation of Article 8, paragraph 2)
- Article 64, subparagraph 5 (operating a waste treatment business without permission under Article 25, paragraph 3[2])
- Article 65, subparagraph 1 (burying wastes in violation of Article 13[3])Article 66, subparagraph 1 (treating wastes in violation of Article 13-2[4]),

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1) Article 8 (Prohibition against Dumping Wastes)
(1) No one shall treat wastes in any area other than the places and facilities provided for the collection of wastes by the Mayor of a Metropolitan Autonomous City, the Governor of a Special Self-Governing Province, the head of a Si/Gun/Gu, or the manager of a facility, such as a public park or road.
(2) No one shall bury or incinerate wastes in any area other than the landfill sites permitted, approved or reported under this Act: Provided, That the foregoing shall not apply to incineration at places specified under the proviso to Article 14 (1), as prescribed by ordinance of the competent Special Self-Governing City, Special Self-Governing Province, or Si/Gun/Gu.

2) Article 25 (Waste Treatment Business)
(3) A person, in receipt of a notice of acceptability pursuant to paragraph (2) shall, within two years (six months, in cases of the waste collection and transportation business under paragraph (5) 1; three years, in cases of the waste treatment business that requires the installation of incinerators and landfill facilities) from the date of receipt of such notice, be equipped with such facilities, equipment, and technical capability in compliance with the standards prescribed by Ministerial Decree of Environment, and shall thereby obtain permission for each business type, type of waste, and area of treatment from the Minister of Environment with respect to designated wastes, and from the Mayor/Do Governor with respect to other wastes. (Omitted.)

3) Article 13 (Standards for Waste Treatment, etc.)
(1) Anyone who intends to treat wastes shall comply with the standards and methods prescribed by Presidential Decree: with respect to wastes that are made readily recyclable in view of the principles of recycling wastes and matters to be observed under Article 13-2 (hereinafter referred to as "intermediately processed wastes"), relaxed standards and methods may separately be prescribed by Presidential Decree.
(2) Medical wastes shall be treated by using medical waste-only containers that have passed inspections conducted in accordance with Article 25-2 (4) (hereinafter referred to as "exclusive container").

4) Article 13-2 (Principles of Recycling Wastes and Matters to be Observed)
(1) Anyone may recycle wastes unless he/she violates any of the following:
1. The wastes shall not cause harm to living environment by discharging airborne particulates, bad odor, volatile organic compounds, air pollutants, etc.;
2. The wastes shall not contaminate soil, hydroecological system, or underground water by leaking

subparagraph 2 (failing to file a report or filing a false report in violation of Article 46, paragraph 1[5])

[Construction Waste Recycling Promotion Act, hereinafter 'Construction Waste Act']

- Article 62, subparagraph 1 (operating a construction waste disposal business without obtaining license, in violation of Article 21, paragraph 3[6])
- Article 63, subparagraph 1 (polluting the surrounding environment, in violation of the criteria for disposal under Article 13, paragraph 1[7])

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harmful substances, such as seeping water, heavy metals, etc.;
3. The wastes shall not cause harm to humans by generating noise or vibration;
4. He/she shall comply with the matters prescribed by Presidential Decree, such as the prevention of harm to humans or environment, in the course of using wastes as recycling products or raw materials by eliminating or stabilizing harmful substances including heavy metals;
5. He/she shall comply with the recycling standards prescribed by Ministerial Decree of Environment.

(2) Notwithstanding paragraph (1), any of the following wastes shall be prohibited or restricted from recycling:
1. Asbestos wastes;
2. Wastes containing polychlorinated biphenyls (PCBs) in at least the concentration prescribed by Ministerial Decree of Environment;
3. Medical wastes (excluding placenta);
4. Wastes prescribed by Presidential Decree among the wastes highly likely to cause harm to human bodies and environment, such as toxic wastes.

(3) The types and level of methods to prevent and reduce contamination and the matters to be observed, such as the standards, methods, etc. of dealing with wastes, to comply with the principles prescribed in the subparagraphs of paragraph (1) and (2) shall be prescribed by Ministerial Decree of Environment.

5) Article 46 (Reporting on Waste Treatment)
(1) Any of the following persons shall have facilities and equipment meeting the standards prescribed by Ministerial Decree of Environment and file a report thereon with the competent Mayor/Do Governor:
1. A person who recycles wastes, such as animal or vegetable remnants in a manner that they are used as compost for his/her own farmland, as prescribed by Ministerial Decree of Environment;
2. A person who collects or transports waste papers, steel scrap, or other wastes prescribed by Ministerial Decree of Environment or recycles them in the manner prescribed by Ministerial Decree of Environment, with a place of business of such size as prescribed by Ministerial Decree of Environment;
3. A person who collects or transports waste tires, waste home appliances, or other wastes prescribed by Ministerial Decree of Environment.

6) Article 21 (Licensing of Construction Waste Disposal Business)
(3) A person who is notified pursuant to paragraph (2) that his or her business plan is appropriate shall meet the following standards and obtain license from a Mayor/Do Governor, as prescribed by Ministerial Decree of Environment. (Omitted.)

[Clean Air Conservation Act, hereinafter 'Clean Air Act']

- Article 89, subparagraph 1 (installing or modifying emission facilities without obtaining a permit or modified permit under Article 23, paragraph 1 or 2[8], or by obtaining such permit or modified permit fraudulently, or operating such emission facilities), subparagraph 2 (installing or operating emission facilities without installing prevention facilities under the main clause of Article 26, paragraph 1 or paragraph 2[9]), subparagraph 3 (violation of Article 31, paragraph 1, subparagraph 1 or 5[10])

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7) Article 13 (Criteria for Disposal of Construction Waste)
(1) Any person that intends to discharge, collect, transport, store, or perform interim disposal of construction wastes shall comply with the criteria and methods determined by Presidential Decree; and where he or she intends to collect and transport construction wastes, he or she shall use a vehicle the whole upper part of which is covered with a cover of metal or a material corresponding to metal, which is a material prescribed by Ministerial Decree of Environment, so that construction wastes do not spill or leak.

8) Article 23 (Permission for and Reporting on Installation of Emission Facilities)
(1) Any person who intends to install emission facilities shall obtain permission from the relevant Mayor/Do Governor or file a report thereon to the relevant Mayor/Do Governor, as prescribed by Presidential Decree: Provided, That emission facilities installed by a City/Do or emission facilities jointly installed by at least two Sis/Guns/Gus over which different Cities/Dos have jurisdiction shall be subject to permission from the Minister of Environment or reporting to the Minister of Environment.
(2) Where a person who has obtained permission under paragraph (1) intends to modify any of the significant matters prescribed by Presidential Decree among the permitted matters, he or she shall obtain permission for such modification, and where he or she intends to modify other matters, he or she shall file a report on modification.

9) Article 26 (Installation of Prevention Facilities)
(1) When a person who has obtained permission or permission for modification, or has filed a report on installation or report on modification under Article 23 (1) through (3) (hereinafter referred to as "business entity") installs or alters the relevant emission facilities, he or she shall install air pollution prevention facilities (hereinafter referred to as "prevention facilities") to ensure that pollutants from such emission facilities meet the permissible emission levels prescribed under Article 16: Provided, That he or she may not be required to install such prevention facilities, where they meet the permissible emission levels prescribed by Presidential Decree.
(2) Any person who installs and operates emission facilities without installing prevention facilities under the proviso of paragraph (1) shall install the prevention facilities in either of the following circumstances:
1. Where pollutants from the emission facilities are likely to exceed the permissible emission levels due to a change in their process or change of raw materials, fuels, etc.;

10) Article 31 (Operation of Emission Facilities and Prevention Facilities)
(1) (Omitted.)
1. Operating emission facilities without operating prevention facilities or emitting pollutants from emission facilities, by mixing with the air to lower the pollution level: Provided, That this shall

- Article 90, subparagraph 1 (installing or modifying emission facilities, or operating such emission facilities, without filing a report or by filing a false report under Article 23, paragraph 1), subparagraph 2 (violation of Article 31, paragraph 1, subparagraph 2[11])

[Water Environment Conservation Act, hereinafter 'Water Conservation Act']

- Article 75, subparagraph 1 [(installing or modifying discharge facilities without obtaining a permit or modified permit under Article 33, paragraph 1 or 2[12], or by obtaining such permit or modified permit fraudulently, or operating such discharge facilities)]
- Article 76, subparagraph 2 (installing discharge facilities or operating such discharge facilities without filing a report or by filing a false report under Article 33, paragraph 1), subparagraph 3 [a business operator (a person who obtained a permit or modified permit for installation of discharge facilities, or filed a report or modified report) or a person operating prevention facilities (facilities prescribed by Ordinance of the Ministry of Environment that remove or reduce water pollutants discharged from point sources, non-point sources, and other sources of water pollution) violating any subparagraph of Article 38, paragraph 1[13]]

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not apply in cases acknowledged by the Minister of Environment or the Mayor/Do Governor as necessary for the prevention of fire, explosion, or any other accident;

5. Failing to normally operate emission facilities or prevention facilities without good cause, thereby discharging pollutants in excess of the permissible emission levels.

11) Article 31 (Operation of Emission Facilities and Prevention Facilities)
(1) (Omitted.)

2. Installing air control devices, branch emission pipes, etc. to emit pollutants without passing through prevention facilities: Provided, That this shall not apply in cases acknowledged by the Minister of Environment or the Mayor/Do Governor as necessary for the prevention of fire, explosion, or any other accident;

12) Article 33 (Permission for, and Reporting on, Installation of Discharging Facilities)
(1) Any person who intends to install discharging facilities shall obtain permission from the Minister of Environment or report thereon to the Minister of Environment, as prescribed by Presidential Decree: Provided, That any person who intends to install wastewater non-discharge facilities pursuant to paragraph (9) shall obtain permission from the Minister of Environment.
(2) Where a person who has obtained permission pursuant to paragraph (1) intends to alter any important matter prescribed by Presidential Decree among the terms and conditions of such permission, he or she shall obtain permission for alteration: Provided, That where he or she intends to alter or has altered any matter prescribed by Ministerial Decree of Environment, he or she shall file a report thereon.

13) Article 38 (Operation of Discharging Facilities and Prevention Facilities)

- Article 77, subparagraph 1 (leaking, spilling, or dumping specific water-hazardous substances, etc. in violation of Article 15, paragraph 1[14], subparagraph 1)
- Article 78, subparagraph 2 (leaking or spilling specific water-hazardous substances, etc. in violation of Article 15, paragraph 1, subparagraph 1 due to occupational negligence or gross negligence), subparagraph 3 (dumping night soil, livestock excreta, etc. into public waters in violation of Article 15, paragraph 1, subparagraph 2)

(1) (Omitted.)

1. Discharging water pollutants from discharging facilities without flowing them into prevention facilities, or installing facilities that can discharge water pollutants without flowing them into prevention facilities;
2. Discharging water pollutants that flow into prevention facilities without passing through the final discharge outlet, or installing facilities that can discharge water pollutants without passing through the final discharge outlet;
3. Treating water pollutants from discharging facilities by mixing with water not discharged during the process or unpolluted water discharged during the process, or discharging water pollutants exceeding the permissible discharge limits set under Article 32 by mixing with water to lower the pollution level before such water pollutants pass through the final discharge outlet: Provided, That the foregoing shall not apply where the Minister of Environment deems that water pollutants can be treated only when they are diluted, as prescribed by Ministerial Decree of Environment, and other cases prescribed by Ministerial Decree of Environment;
4. Discharging water pollutants exceeding the permissible discharge limits set under Article 32 due to the business entity's failure to normally operate discharging facilities and prevention facilities without good cause.

[14] Article 15 (Prohibition of Discharge)

(1) No person shall engage in any of the following activities without good cause:

1. Leaking, discharging, or dumping a specific substance harmful to water quality, designated wastes under the Wastes Control Act, a petroleum product, a fake petroleum product, petroleum substitute fuel, or crude oil defined in the Petroleum and Petroleum Substitute Fuel Business Act (excluding petroleum gas; hereinafter referred to as "oils"), a toxic substance under the Chemical Substances Control Act (hereinafter referred to as "toxic substance"), or a pesticide defined in the Pesticide Control Act (hereinafter referred to as "pesticide") into public waters;
2. Dumping excreta, livestock excreta, animal corpses, wastes (excluding the designated wastes under the Wastes Control Act), or sludge into public waters;

[Marine Environment Management Act, hereinafter 'Marine Management Act']

- Article 126, subparagraph 1 (discharging oil, noxious liquid substances, or packaged harmful substances from vessels or marine facilities in violation of Article 22, paragraphs 1 and 2[15])
- Article 127, subparagraph 1 (discharging wastes from vessels or marine facilities in violation of Article 22, paragraphs 1 and 2), subparagraph 2 (discharging oil, noxious liquid substances, or packaged harmful substances from vessels or marine facilities in violation of Article 22, paragraphs 1 and 2 by negligence)
- Article 128, subparagraph 1 (discharging wastes from vessels or marine facilities in violation of Article 22, paragraphs 1 and 2 by negligence)

[Act on the Management and Use of Livestock Excreta, hereinafter 'Livestock Excreta Act']

- Article 48, subparagraph 1 (a person who installed discharge facilities without obtaining a permit under Article 11[16], paragraph 1 or by obtaining such permit

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15) Article 22 (Prohibition of Discharge of Pollutants)
(1) No person shall discharge pollutants from ships into the sea: Provided, That the same shall not apply in the following cases
1. ~ 3. (Omitted.)
(2) No person shall discharge pollutants generated in places prescribed by Presidential Decree, such as marine facilities, bathing beaches, and estuaries (hereinafter referred to as "marine space"), into the sea: Provided, That the same shall not apply in the following cases:
1. ~ 2. (Omitted.)

16) Article 11 (Installation of Waste-Generating Facilities)
(1) A person who intends to install, or has been installing or operating a waste-generating facility at least the size prescribed by Presidential Decree, shall prepare a plan for the installation of the waste-generating facility (including matters regarding livestock excreta disposal and reducing malodors) as prescribed by Presidential Decree, and obtain permission from the head of the competent Si/Gun/Gu.
(2) When a person who obtained permission under paragraph (1) intends to alter any significant matter prescribed by Ministerial Decree of Environment, he or she shall obtain permission for alteration, and when he or she intends to alter any matter other than significant matters, he or she shall report on such proposed alteration.
(3) A person who intends to install, or has been installing or operating a waste-generating facility at least the size prescribed by Presidential Decree, shall report thereon to the head of the competent Si/Gun/Gu as prescribed by Ministerial Decree of Environment, if the waste-generating facility is not subject to permission under paragraph (1). The same shall apply to any intended alteration to the reported matters prescribed by Ministerial Decree of Environment.
(4) No person shall use a waste-generating facility installed or altered without permission, permission

fraudulently or by other improper means causing livestock excreta or compost/liquid fertilizer to flow into public waters in violation of Article 10, paragraph 1[17] or committing acts falling under any subparagraph of Article 17, paragraph 1[18]), subparagraph 6 (a person who did not obtain a permit for livestock excreta-related business under Article 28, paragraph 1[19] causing

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for alteration, a report, or a report on alteration prescribed in paragraphs (1) through (3), or entrust the raising of livestock (hereinafter referred to as "entrustment of livestock raising") by providing his or her livestock, feed, etc. to those who raise livestock by using such facility.

17) Article 10 (Duty to Treat Livestock Excreta, Manure, and Liquid Manure)
(1) No person who discharges, collects, transports, disposes of, or sprays livestock excreta, manure, or liquid manure shall commit an act of flowing or with a risk of flowing livestock excreta, manure, or liquid manure to public waters provided for in subparagraph 9 of Article 2 of the Water Environment Conservation Act (hereinafter referred to as "public waters") by leaking or neglecting the same or by spraying liquid manure in violation of any of the standards for spraying liquid manure prescribed in Article 17 (1) 5.

18) Article 17 (Management of Waste-Generating and Disposal Facilities)
(1) (Omitted.)
1. Discharging livestock excreta without treating it through a disposal facility or installing a facility through which livestock excreta can be discharged without treating it through a disposal facility;
2. Discharging livestock excreta flowing into a disposal facility without resource recovery or without discharging it through the final discharge outlet (hereinafter referred to as "halfway discharge") or installing a facility for discharging livestock excreta halfway: Provided, That this shall not apply where the head of the competent Si/Gun/Gu recognizes that halfway discharge is necessary for producing liquid manure in the process of disposing of livestock excreta, etc. by a disposal facility;
3. Mixing water with livestock excreta flowing into a purification facility in an attempt to purify it, or discharging livestock excreta after mixing it with water; provided, this shall not apply where the head of the competent Si/Gun/Gu recognizes that it is possible to purify livestock excreta only by mixing it with water in such process, subject to consultation with the Korea Environment Corporation under the Korea Environment Corporation Act or other relevant specialized institutions;
4. Producing and using manure or liquid manure which fails to meet any of the standards for converting excreta into manure or liquid manure, or transferring such manure or liquid manure to a third person, where livestock excreta is disposed at a resource recovery plant: Provided, That this shall not apply where manure or liquid manure which fails to meet any of the standards for converting excreta into manure or liquid manure is transferred to a person who intends to use it after fermenting it again, as prescribed by Presidential Decree;
5. Spraying liquid manure produced at a resource recovery plant into liquid manure over any place other than where the installer of a relevant resource recovery plant has secured to spray liquid manure, or violating spraying standards prescribed by Ministerial Decree of Environment;
6. Dumping manure or liquid manure without using it as a fertilizer, or dumping livestock excreta solid fuel without using it as fuel;
7. Discharging livestock excreta not in compliance with the quality standards for discharged water by not operating purification facilities properly without justifiable grounds.

19) Article 28 (Livestock Excreta-Related Business)
(1) A person who intends to run a business vicariously performing the collection, transportation, or

livestock excreta or compost/liquid fertilizer to flow into public waters in violation of Article 10, paragraph 1 or committing acts falling under any subparagraph of Article 17, paragraph 1)

- Article 49, subparagraph 1 (installing or modifying discharge facilities without obtaining a permit or modified permit under Article 11, paragraph 1 or 2, or by obtaining such permit or modified permit fraudulently or by other improper means, or raising livestock or engaging in consignment raising of livestock using such discharge facilities), subparagraph 2 (a person who obtained a permit for installation of discharge facilities under Article 11, paragraph 1 causing livestock excreta or compost/liquid fertilizer to flow into public waters in violation of Article 10, paragraph 1 or committing acts falling under any subparagraph of Article 17, paragraph 1), subparagraph 4 (a person who did not file a report for discharge facilities subject to reporting in violation of Article 11, paragraph 3 causing livestock excreta or compost/liquid fertilizer to flow into public waters in violation of Article 10, paragraph 1 or committing acts falling under any subparagraph of Article 17, paragraph 1)
- Article 50, subparagraph 3 (a person who installed discharge facilities without obtaining a permit under Article 11, paragraph 1 or by obtaining such permit fraudulently or by other improper means causing livestock excreta or compost/liquid fertilizer to flow into public waters in violation of Article 10, paragraph 1 by occupational negligence), subparagraph 4 (installing discharge facilities or raising livestock or engaging in consignment raising of livestock using such discharge facilities without filing a report for installation of discharge facilities in violation of Article 11, paragraph 3 or by filing a report fraudulently or by other improper means), subparagraph 5 (a person who filed

disposal of livestock excreta or the management of a disposal facility (hereinafter referred to as "livestock excreta-related business") shall be equipped with facilities, equipment, and technical capability complying with standards prescribed by Presidential Decree and obtain permission for each type of business according to the following classifications from the head of a Si/Gun/Gu. A person who intends to change any permitted matter shall obtain permission for such change or report such change in accordance with guidelines prescribed by Presidential Decree:

1. Livestock excreta collection and transportation business: the business of collecting and transporting livestock excreta;
2. Livestock excreta disposal business: the business of disposing of livestock excreta finally and safely by being equipped with resource recovery plants (excluding facilities for converting into manure or liquid manure) or purification facilities;
3. Livestock excreta facility management business: the business of vicariously performing the management and operation of disposal facilities.

a report for installation of discharge facilities under Article 11, paragraph 3 or a person who applied liquid fertilizer causing livestock excreta or compost/liquid fertilizer to flow into public waters in violation of Article 10, paragraph 1 or committing acts falling under any subparagraph of Article 17, paragraph 1), subparagraph 6 (a person who obtained a permit for installation of discharge facilities under Article 11, paragraph 1, a person who did not receive completion inspection for installation or modification of discharge facilities or treatment facilities in violation of Article 15[20], or a livestock excreta-related business operator causing livestock excreta or compost/liquid fertilizer to flow into public waters in violation of Article 10, paragraph 1 by occupational negligence or committing acts falling under any subparagraph of Article 17, paragraph 1 by occupational negligence), subparagraph 9 (a person who did not file a report for installation of discharge facilities under Article 11, paragraph 3 or filed a report fraudulently causing livestock excreta or compost/liquid fertilizer to flow into public waters in violation of Article 10, paragraph 1 by occupational negligence), subparagraph 11 (a person who filed a report for recycling causing livestock excreta or compost/liquid fertilizer to flow into public waters in violation of Article 10, paragraph 1 or committing acts falling under any subparagraph of Article 17, paragraph 1)

※ Note that the underlined provisions applied to certain crimes were deleted or amended following the statutory revisions made after the sentencing guidelines were established. The sentencing guidelines on those crimes will be revised later. For this reason, all or part of the current standards of sentencing would not be applied.

20) Article 15 (Completion Inspections of Waste-Generating Facilities)
(1) When a waste-generating facility installer or a disposal facility installer has completed the installation or alteration of a waste-generating or disposal facility, he or she shall file an application for completion inspection with the head of the competent Si/Gun/Gu, as prescribed by Ministerial Decree of Environment, to undergo a completion inspection (hereinafter referred to as "completion inspection"): Provided, That this shall not apply to any person who has completed the registration of a fertilizer production business pursuant to Article 11 of the Fertilizer Control Act. In such cases, documents prescribed by Ministerial Decree of Environment may be submitted in lieu of a completion inspection.

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 WASTE · CONSTRUCTION WASTE RELATED OFFENSE

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Dumping · Burial · Incineration of Waste	4 mos. – 1 yr.	8 mos. – 2 yrs.	1 yr. 6 mos. – 4 yrs.
2	Unlicensed Waste Disposal Business	– 10 mos.	8 mos. – 1 yr. 2 mos.	1 yr. – 2 yrs. 6 mos.
3	Burial of Wastes in Violation of Disposal Standards, Etc.	– 8 mos.	6 mos. – 1 yr.	10 mos. – 2 yrs.
4	Disposal of Wastes in Violation of Disposal Standards, Etc.	– 6 mos.	4 mos. – 10 mos.	8 mos. – 1 yr. 6 mos.

▷ Offenses under Article 62, subparagraph 1 of the Construction Waste Act (operating an unlicensed construction waste disposal business) fall under Type 2, offenses under Article 63, subparagraph 1 of the same Act (polluting the surrounding environment in violation of disposal standards) fall under Type 3, and offenses under Article 66, subparagraph 2 of the Wastes Control Act (failure to report waste disposal, etc.) fall under Type 4.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• In cases where there are special extenuating circumstances that mitigate the offender's involvement in the offense • Dolus Eventualis • The risk of environmental pollution does not exist or is very low	• Highly egregious conduct or methods • Playing a leading role or directing/coordinating the offense • Serious environmental pollution has occurred or the risk thereof is very high • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct		• Large amount of profit gained from the offense • Significant quantity discharged or prolonged offense • Collusion with an enforcement official
	Offender/ Etc.	• Sincere remorse • No criminal convictions • Offender takes corrective measures after enforcement action or restores the original state by removing pollution, etc.	• Evidence tampering or attempt to destroy or conceal evidence after enforcement • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

2 AIR ENVIRONMENT RELATED OFFENSE

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Unlicensed Installation · Operation of Discharge Facilities	4 mos. ~ 1 yr.	8 mos. ~ 2 yrs.	1 yr. 6 mos. ~ 4 yrs.
2	Unreported Installation · Operation of Discharge Facilities	~ 10 mos.	8 mos. ~ 1 yr. 2 mos.	1 yr. ~ 2 yrs. 6 mos.

▷ Offenses in violation of Clean Air Act Article 89, subparagraph 2 and subparagraph 3 (failure to install · operate pollution prevention facilities, etc.) fall under Type 1, and offenses of violation of Article 90, subparagraph 2 of the same Act (installation of air control devices that bypass pollution prevention facilities, etc.) are subsumed under Type 2.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• In cases where there are special extenuating circumstances that mitigate the offender's involvement in the offense • Dolus Eventualis • The risk of environmental pollution does not exist or is very low	• Highly egregious conduct or methods • Playing a leading role or directing/coordinating the offense • Serious environmental pollution has occurred or the risk thereof is very high • Instigating the subordinate to commit the offense

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period
General Sentencing Factor	Conduct		• Large amount of profit gained from the offense • Significant quantity discharged or prolonged offense • Collusion with an enforcement official
	Offender/ Etc.	• Sincere remorse • No criminal convictions • Offender takes corrective measures after enforcement action or restores the original state by removing pollution, etc.	• Evidence tampering or attempting to destroy or conceal evidence after enforcement • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

3 WATER ENVIRONMENT RELATED OFFENSE

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Unlicensed Installation · Operation of Discharge Facilities	4 mos. ~ 1 yr.	8 mos. ~ 2 yrs.	1 yr. 6 mos. ~ 4 yrs.
2	Unreported Installation · Operation of Discharge Facilities	~ 10 mos.	8 mos. ~ 1 yr. 2 mos.	1 yr. ~ 2 yrs. 6 mos.
3	Unauthorized Discharge of Specific Water-Hazardous Substances	~ 8 mos.	6 mos. ~ 1 yr.	10 mos. ~ 2 yrs.
4	Discharge of Specific Water-Hazardous Substances By Occupational Negligence or Gross Negligence	~ 4 mos.	2 mos. ~ 8 mos.	6 mos. ~ 10 mos.

▷ Offenses in violation of Water Conservation Act Article 76, subparagraph 3 (discharge without passing through pollution prevention facilities, etc.) fall under Type 2, and offenses in violation of Article 78,

subparagraph 3 of the same Act (unauthorized discharge of night soil · livestock excreta, etc.) are subsumed under Type 4.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigating the offender's involvement • Dolus Eventualis • The risk of environmental pollution does not exist or is very low	• Highly egregious conduct or methods • Playing a leading role or directing/coordinating the offense • Serious environmental pollution has occurred or the risk thereof is very high • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period
General Sentencing Factor	Conduct		• Large amount of profit gained from the offense • Significant quantity discharged or prolonged offense • Collusion with an enforcement official
	Offender/ Etc.	• Sincere remorse • No criminal convictions • Offender takes corrective measures after enforcement action or restores the original state by removing pollution, etc.	• Evidence tampering or attempting to destroy or conceal evidence after enforcement • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

4 MARINE ENVIRONMENT RELATED OFFENSE

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Unauthorized Discharge of Oil · Noxious Liquid Substances, etc. from Vessels · Marine Facilities	– 10 mos.	8 mos. – 1 yr. 2 mos.	1 yr. – 2 yrs. 6 mos.
2	Unauthorized Discharge of Wastes from Vessels · Marine Facilities/Discharge of Oil · Noxious Liquid Substances, etc. By Negligence	– 8 mos.	6 mos. – 1 yr.	10 mos. – 2 yrs.
3	Discharge of Wastes By Negligence	– 6 mos.	4 mos. – 10 mos.	8 mos. – 1 yr. 6 mos.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Dolus Eventualis • The risk of environmental pollution does not exist or is very low	• Highly egregious conduct or methods • Playing a leading role or directing/coordinating the offense • Serious environmental pollution has occurred or the risk thereof is very high • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period
General Sentencing Factor	Conduct		• Large amount of profit gained from the offense • Significant quantity discharged or prolonged offense • Collusion with an enforcement official
	Offender/ Etc.	• Sincere remorse • No criminal convictions • Offender takes corrective	• Evidence tampering or attempting to destroy or conceal evidence after enforcement

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
		measures after enforcement action or restores the original state by removing pollution, etc.	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

5 LIVESTOCK EXCRETA RELATED OFFENSE

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Unauthorized Discharge, etc. from Unlicensed Discharge Facilities	~ 10 mos.	8 mos. ~ 1 yr. 2 mos.	1 yr. ~ 2 yrs. 6 mos.
2	Unauthorized Discharge, etc. from Licensed Discharge Facilities/Unauthorized Discharge, etc. from Unreported Discharge Facilities	~ 6 mos.	4 mos. ~ 10 mos.	8 mos. ~ 1 yr. 6 mos.
3	Unauthorized Discharge, etc. from Reported Discharge Facilities/Unauthorized Discharge, etc. By Negligence	~ 4 mos.	2 mos. ~ 8 mos.	6 mos. ~ 10 mos.

▷ Offenses in violation of Livestock Excreta Act Article 49, subparagraph 1 (unlicensed installation of discharge facilities · livestock raising, etc.) fall under Type 2, and offenses in violation of Article 50, subparagraph 4 of the same Act (unreported installation of discharge facilities · livestock raising, etc.) are subsumed under Type 3.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• In cases where there are special extenuating circumstances that mitigate the offender's involvement in the offense • Dolus Eventualis • The risk of environmental pollution does not exist or is very low	• Highly egregious conduct or methods • Playing a leading role or directing/coordinating the offense • Serious environmental pollution has occurred or the risk thereof is very high • Instigating the subordinate to commit the offense

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period
General Sentencing Factor	Conduct		• Large amount of profit gained from the offense • Significant quantity discharged or prolonged offense • Collusion with an enforcement official
	Offender/ Etc.	• Sincere remorse • No criminal convictions • Offender takes corrective measures after enforcement action or restores the original state by removing pollution, etc.	• Evidence tampering or attempting to destroy or conceal evidence after enforcement • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

DEFINITION OF OFFENSES

1 WASTE · CONSTRUCTION WASTE RELATED OFFENSE

1. TYPE 1 – DUMPING · BURYING · INCINERATING WASTE

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Dumping industrial wastes in a place other than a place or facility provided by the manager of the facility for the collection of waste	Wastes Control Act, Article 63, subparagraph 1
Burying or incinerating industrial wastes in a place other than a waste disposal facility for which permission or approval has been obtained	Wastes Control Act, Article 63, subparagraph 2

2. TYPE 2 – UNLICENSED WASTE DISPOSAL BUSINESS

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Operating a waste disposal business without obtaining permission	Wastes Control Act, Article 64, subparagraph 5
Operating a construction waste disposal business without obtaining permission	Construction Waste Act, Article 62, subparagraph 1

3. TYPE 3 – BURYING, ETC., WHILE VIOLATING CRITERIA FOR DISPOSAL

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Burying wastes in violation of the criteria for disposal of waste	Wastes Control Act, Article 65, subparagraph 1
Polluting the surrounding environment in violation of the criteria for disposal of construction waste	Construction Waste Act, Article 63, subparagraph 1

4. TYPE 4 – TREATING WASTES, ETC., WHILE VIOLATING CRITERIA FOR DISPOSAL

○ This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Treating wastes in violation of the criteria for disposal or recycling of waste	Wastes Control Act, Article 66, subparagraph 1
Failing to file a report or filing a false report while recycling or collecting and transporting waste	Wastes Control Act, Article 66, subparagraph 2

2 AIR ENVIRONMENT RELATED OFFENSE

1. TYPE 1 – UNLICENSED INSTALLATION · OPERATION OF DISCHARGE FACILITIES

○ This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Installing or modifying discharge facilities without obtaining a permit or modified permit, or by obtaining such permit or modified permit fraudulently, or operating such discharge facilities	Clean Air Act, Article 89, subparagraph 1
Installing or operating discharge facilities without installing prevention facilities	Clean Air Act, Article 89, subparagraph 2
Failure to operate prevention facilities when operating discharge facilities or discharging pollutants by mixing air with pollutants emitted from discharge facilities to lower pollution levels/Discharging pollutants in excess of emission standards by failing to operate discharge facilities or prevention facilities normally without justifiable grounds	Clean Air Act, Article 89, subparagraph 3

2. TYPE 2 – UNREPORTED INSTALLATION · OPERATION OF DISCHARGE FACILITIES

○ This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Installing or modifying discharge facilities or operating such discharge facilities without filing a report or by filing a false report	Clean Air Act, Article 90, subparagraph 1
Installing air control devices, branch discharge pipes, etc. that enable discharge of pollutants without passing through prevention facilities	Clean Air Act, Article 90, subparagraph 2

3 WATER ENVIRONMENT RELATED OFFENSE

1. TYPE 1 – UNLICENSED INSTALLATION · DISCHARGE FACILITIES

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Installing or modifying discharge facilities without obtaining a permit or modified permit, or by obtaining such permit or modified permit fraudulently, or operating such discharge facilities	Water Conservation Act, Article 75, subparagraph 1

2. TYPE 2 – UNREPORTED INSTALLATION · OPERATION OF DISCHARGE FACILITIES

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Installing discharge facilities or operating such discharge facilities without filing a report or by filing a false report	Water Conservation Act, Article 76, subparagraph 2
A business operator or a person operating prevention facilities: ① discharging water pollutants from discharge facilities without passing them through prevention facilities or installing facilities that enable discharge without passing through prevention facilities ② discharging water pollutants passing into prevention facilities without passing through the final discharge outlet or installing facilities that enable discharge without passing through the final discharge outlet ③ treating water pollutants discharged from discharge facilities by mixing them with water not discharged during the process or unpolluted water discharged during the process, or mixing water to lower pollution levels before	Water Conservation Act, Article 76, subparagraph 3

ELEMENTS OF OFFENSE	APPLICABLE LAW
water pollutants exceeding emission standards pass through the final discharge outlet of prevention facilities ④ discharging water pollutants in excess of emission standards by failing to operate discharge facilities and prevention facilities normally without justifiable reason	

3. TYPE 3 - UNAUTHORIZED DISCHARGE OF SPECIFIC WATER-HAZARDOUS SUBSTANCES

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Leaking, spilling, or dumping specific water-hazardous substances, etc.	Water Conservation Act, Article 77, subparagraph 1

4. TYPE 4 - UNAUTHORIZED DISCHARGE OF SPECIFIC WATER-HAZARDOUS SUBSTANCES BY OCCUPATIONAL NEGLIGENCE OR GROSS NEGLIGENCE

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Leaking or spilling specific water-hazardous substances by occupational negligence or gross negligence	Water Conservation Act, Article 78, subparagraph 2
Dumping night soil, livestock excreta, etc. into public waters	Water Conservation Act, Article 78, subparagraph 3

4 MARINE ENVIRONMENT RELATED OFFENSE

1. TYPE 1 - UNAUTHORIZED DISCHARGE NOXIOUS LIQUID SUBSTANCES, ETC. FROM VESSELS · MARINE FACILITIES

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Discharging oil, noxious liquid substances, or packaged harmful substances from vessels or marine facilities	Marine Management Act, Article 126, subparagraph 1

2. Type 2 – UNAUTHORIZED DISCHARGE OF WASTES FROM VESSELS · MARINE FACILITIES/ DISCHARGE OF OIL · NOXIOUS LIQUID SUBSTANCES, ETC. BY NEGLIGENCE

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Discharging wastes from vessels or marine facilities	Marine Management Act, Article 127, subparagraph 1
Discharging oil, noxious liquid substances, or packaged harmful substances from vessels or marine facilities by negligence	Marine Management Act, Article 127, subparagraph 2

3. TYPE 3 – DISCHARGE OF WASTE BY NEGLIGENCE

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Discharging wastes from vessels or marine facilities by negligence	Marine Management Act, Article 128, subparagraph 1

5 LIVESTOCK EXCRETA RELATED OFFENSE

1. TYPE 1 – UNAUTHORIZED DISCHARGE, ETC. FROM UNLICENSED DISCHARGE FACILITIES

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
A person who installed discharge facilities without obtaining a permit or by obtaining such permit fraudulently or by other improper means: ① causing livestock excreta or compost/liquid fertilizer to flow into public waters, ② discharging livestock excreta from discharge facilities without passing it through treatment facilities or installing facilities that enable discharge without passing through treatment facilities, ③ discharging livestock excreta passing into treatment facilities in an unrecycled state or without	Livestock Excreta Act, Article 48, subparagraph 1

ELEMENTS OF OFFENSE	APPLICABLE LAW
passing through the final discharge outlet (hereinafter "intermediate discharge") or installing facilities that enable intermediate discharge, ④ purifying livestock excreta passing into purification facilities by mixing water or discharging by mixing water, ⑤ when treating livestock excreta in recycling facilities, producing and using compost/liquid fertilizer that does not meet composting/liquid fertilizer standards or providing it to others, ⑥ applying liquid fertilizer produced in recycling facilities that produce liquid fertilizer to places other than liquid fertilizer application sites secured by the person who installed the relevant recycling facilities or failing to comply with application standards prescribed by Ordinance of the Ministry of Environment, ⑦ dumping compost or liquid fertilizer without using it as fertilizer or dumping solid fuel made from livestock excreta without using it as fuel, ⑧ discharging livestock excreta in a manner that does not meet effluent water quality standards by failing to operate purification facilities normally without justifiable grounds (hereinafter the seven acts from ② to ⑧ above are referred to as 'violation of obligations regarding discharge facilities and treatment facilities under each subparagraph of Article 17, paragraph 1')	
A person who did not obtain a permit for livestock excreta-related business causing livestock excreta or compost/liquid fertilizer to flow into public waters or violating obligations regarding discharge facilities and treatment facilities under each subparagraph of Article 17, paragraph 1	Livestock Excreta Act, Article 48, subparagraph 6

2. TYPE 2 - UNAUTHORIZED DISCHARGE, ETC. FROM LICENSED DISCHARGE FACILITIES/UNAUTHORIZED DISCHARGE, ETC. FROM UNREPORTED DISCHARGE FACILITIES

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Installing or modifying discharge facilities without obtaining a permit or modified permit, or by obtaining such permit or modified permit fraudulently or by other improper means, or raising livestock or engaging in consignment raising of livestock using such discharge facilities	Livestock Excreta Act, Article 49, subparagraph 1
A person who obtained a permit for installation of discharge facilities causing livestock excreta or compost/liquid	Livestock Excreta Act, Article 49, subparagraph 2

ELEMENTS OF OFFENSE	APPLICABLE LAW
fertilizer to flow into public waters or violating obligations regarding discharge facilities and treatment facilities under each subparagraph of Article 17, paragraph 1	
A person who did not file a report for discharge facilities subject to reporting causing livestock excreta or compost/liquid fertilizer to flow into public waters or violating obligations regarding discharge facilities and treatment facilities under each subparagraph of Article 17, paragraph 1	Livestock Excreta Act, Article 49, subparagraph 4

3. TYPE 3 - UNAUTHORIZED DISCHARGE, ETC. FROM REPORTED DISCHARGE FACILITIES/UNAUTHORIZED DISCHARGE, ETC. BY NEGLIGENCE

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
A person who installed discharge facilities without obtaining a permit or by obtaining such permit fraudulently or by other improper means causing livestock excreta or compost and/or liquid fertilizer to flow into public waters by occupational negligence	Livestock Excreta Act, Article 50, subparagraph 3
Installing discharge facilities or raising livestock or engaging in consignment raising of livestock using such discharge facilities without filing a report for installation of discharge facilities or by filing a report fraudulently or by other improper means	Livestock Excreta Act, Article 50, subparagraph 4
A person who filed a report for installation of discharge facilities or a person who applied liquid fertilizer causing livestock excreta or compost and/or liquid fertilizer to flow into public waters or violating obligations regarding discharge facilities and treatment facilities under each subparagraph of Article 17, paragraph 1	Livestock Excreta Act, Article 50, subparagraph 5
A person who obtained a permit for installation of discharge facilities, a person who did not receive completion inspection for installation or modification of discharge or treatment facilities, or a livestock excreta-related business operator causing livestock excreta or compost and/or liquid fertilizer to flow into public waters by occupational negligence or a livestock excreta-related business operator violating obligations regarding discharge facilities and treatment facilities under each subparagraph of Article 17, paragraph 1 by occupational negligence	Livestock Excreta Act, Article 50, subparagraph 6

ELEMENTS OF OFFENSE	APPLICABLE LAW
A person who did not file a report for installation of discharge facilities or filed a report fraudulently causing livestock excreta or compost and/or liquid fertilizer to flow into public waters by occupational negligence	Livestock Excreta Act, Article 50, subparagraph 9
A person who filed a report for recycling causing livestock excreta or compost and/or liquid fertilizer to flow into public waters or violating obligations regarding discharge facilities and treatment facilities under each subparagraph of Article 17, paragraph 1	Livestock Excreta Act, Article 50, subparagraph 11

DEFINITION OF SENTENCING FACTORS

1. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES THAT MITIGATE THE OFFENDER'S INVOLVEMENT

- This applies where one or more of the following are present:
  - The offender participated in the crime under coercion or threats by another person (excluding cases that fall under Article 12 of the Criminal Act).
  - The offender merely agreed to participate in the crime and neither directed nor directly took part in carrying out the offense.
  - The offender did not plan, direct, or have a leading role in the commission of the offense, but had a limited role in the offense.
  - Other cases with comparable factors

2. THE RISK OF ENVIRONMENTAL POLLUTION DOES NOT EXIST OR IS VERY LOW

- This applies where one or more of the following are present:
  - Cases where pollution prevention facilities are fully installed and operating normally but administrative procedures such as permits or reports were omitted by mere carelessness
  - Cases where pollutants are treated in completely sealed or separated locations with no risk of external discharge
  - Other cases with comparable factors

3. HIGHLY EGREGIOUS CONDUCT OR METHODS

- This applies where one or more of the following are present:
  - Cases where the means and methods of the offense were meticulously planned in advance
  - Cases where the offense was committed by installing large-scale or high-tech facilities
  - Other cases with comparable factors

4. SERIOUS ENVIRONMENTAL POLLUTION HAS OCCURRED OR THE RISK THEREOF IS VERY HIGH

- This applies where one or more of the following are present:

- Cases where direct harm to human life or body has occurred or the risk is very high
- Cases where serious levels of animal and/or plant deaths have occurred or the risk thereof is very high
- Cases where recovery from damage is impossible or requires considerable time and cost
- Cases where the offense was committed in an environmentally protected area as defined in Article 2, subparagraph 7 of the Act on the Aggravated Punishment, etc. of Specific Crimes Related to Environmental Damage
- Cases where designated wastes as defined in Article 2, subparagraph 4 of the Wastes Control Act were discharged (Section 01, 04 of this Chapter)[21]
- Cases where specific air pollutants as defined in Article 2, subparagraph 9 of the Clean Air Act were discharged (Section 02 of this Chapter)[22]
- Cases where specific water-hazardous substances as defined in Article 2, subparagraph 8 of the Water Conservation Act were discharged (Type 1, 2 within Section 03 of this Chapter)[23]
- Other cases with comparable factors

※ However, this factor shall not be applied when a separate crime is established and Guidelines on Sentencing Multiple Offenses apply.

5. NO PRIOR CRIMINAL CONVICTIONS

○ This indicates cases in which, the offender has never committed a crime even once prior to the relevant offense. However, this excludes cases where crimes were committed repeatedly over a prolonged period.

6. SINCERE REMORSE

○ This indicates cases in which, after examining and assessing the specific circumstances surrounding the offender's admission of the offense and any voluntary efforts made toward victim restitution and/or the prevention of re-offending, the offender is deemed to show genuine remorse for the offense.

21) Waste, Construction Waste Related Offense and Marine Environment Related Offense
22) Air Environment Related Offense
23) Water Environment Related Offense

PRINCIPLES APPLICABLE TO SENTENCING FACTORS

1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.

GENERAL APPLICATION PRINCIPLES

1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

2 RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE SENTENCING GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- Where the sentencing range recommended under this guideline conflicts with the statutory applicable aggravated/mitigated sentencing range, the upper or lower limit of the applicable sentencing range by law shall govern.

3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating factors listed in the Sentencing Factor Table of this guideline, such factors shall be considered as extenuating circumstances among mitigating factors.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

1 APPLICABLE RANGE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE OFFENSES

- Except for concurrent offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply:
  - ❶ For multiple offenses involving two offenses, the upper end of the sentencing range shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.

❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest sentencing range among the other offenses.

❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstance	• Highly egregious conduct or methods • Playing a leading role or directing/coordinating the offense • Serious environmental pollution has occurred or the risk thereof is very high • Prior convictions for the same-offense [suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years, or three or more fines (including suspended fine)]	• In cases where there are special circumstances that extenuate the offender's involvement in the offense • Dolus Eventualis • Risk of environmental pollution does not exist or is very low • No prior criminal convictions • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime
General Circumstance	• Substantial amount of profit gained from the offense • Substantial discharge volume or offense over prolonged period • Collusion with enforcement officials • Evidence tampering or attempting to destroy or conceal evidence after enforcement • Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • Lack of social/family ties • Absence of sincere remorse	• Corrective measures after enforcement action or environmental restoration, etc. through pollution removal • Stable social/family ties • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • The offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on dependent family members

DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and the Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment or a fine was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.

PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:
  ❶ When two or more Primary Affirmative Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.
  ❷ When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.
  ❸ In cases in which ❶ or ❷ apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than ❶ or ❷, the judges shall decide whether to suspend the sentence after comparing and assessing all the Circumstances comprehensively.