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PUBLIC HEARING

before

SENATE SPECIAL COMMITTEE TO STUDY COASTAL AND OCEAN POLLUTION

Testimony concerning the proper disposal of hospital waste,  
the monitoring of garbage vessels and other shipping traffic  
in coastal waters, and the dispute between New York and  
New Jersey regarding the Fresh Kills Landfill

August 26, 1987  
Room 334  
State House Annex  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Frank Pallone, Jr., Chairman  
Senator Richard Van Wagner  
Senator S. Thomas Gagliano  
Senator James R. Hurley

ALSO PRESENT:

Patricia Cane  
Office of Legislative Services  
Aide, Senate Special Committee to Study  
Coastal and Ocean Pollution

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## New Jersey State Legislature

### SENATE SPECIAL COMMITTEE TO STUDY COASTAL AND OCEAN POLLUTION

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August 18, 1987

### NOTICE OF A PUBLIC HEARING

The Senate Special Committee to Study Coastal and Ocean Pollution will hold a public hearing at 10:00 A.M. on Wednesday, August 26, 1987, in room 334 of the State House Annex, Trenton, New Jersey.

The Committee will be taking testimony concerning the proper disposal of hospital waste, the monitoring of garbage vessels and other shipping traffic in coastal waters, and the dispute between New York and New Jersey regarding the Fresh Kills landfill. In light of the recent beach closings, the public hearing on the pretreatment issue originally scheduled for this day has been postponed and will be rescheduled for sometime in September.

Anyone wishing to testify should contact Patricia Cane, the Committee Aide, at (609) 292-7676.





## TABLE OF CONTENTS

	<u>Page</u>
Assemblyman Anthony M. Villane, Jr. District 11	6
Kenneth Brown, Director New Jersey Environmental Federation	13
Linda Hasbrouk, Executive Director Save Our Shores	23
Senator William L. Gormley District 2	30
Marlene Lynch Ford, Esq. Former Assemblywoman	45
Dr. Alan I. Mytelka Director and Chief Engineer Interstate Sanitation Commission	48
Donald A. Deieso Assistant Commissioner for Environmental Management and Control New Jersey Department of Environmental Protection	66
George McCann, Director Division of Water Resources New Jersey Department of Environmental Protection	86
Barbara L. Britton, Vice President Mercer Medical Center	101
Lt. Commander Thomas Reilly Captain of the Port, New York United States Coast Guard	108
James Blumenstock Chief of Field Operations New Jersey Department of Health	128
Mayor Daniel Beyel Upper Township, New Jersey	137
Kenneth Smith, Director New Jersey Shore and Beach Preservation Association	141





TABLE OF CONTENTS (continued)

	<u>Page</u>
APPENDIX:	
Statement submitted by Valerie Maxwell Clean Ocean Action	1x
Letter to Ray Cantor, plus attachments, from Jeannette Diaz The City of New York Department of Sanitation	3x
"Hospital Waste Workshop Results and Conclusions"	17x
Nursing Reference Manual Subject: "Disposal of Needles and Syringes" from St. Mary Hospital, Hoboken, New Jersey	22x
Memo from New Jersey State Department of Health Health Facilities Inspections to Hospital Administrators and Infection Control Nurses Subject: "Hospital Waste Disposal"	23x
Memo from New Jersey State Department of Health Health Facilities Evaluation to Hospital Administrators Subject: "Hospital Waste Disposal"	24x

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SENATOR FRANK PALLONE, JR. (Chairman): We are about to begin. We have the other Senators coming, and I will introduce them as they arrive.

First of all, I want to say good morning to everybody, and welcome to this public hearing, which is being held by the Senate Special Committee to Study Coastal and Ocean Pollution. Today's topic was to have been pre-treatment. However, in light of the recent events resulting in the closing of beaches in New Jersey, the Committee members, collectively, are taking this opportunity to solicit testimony on the issues of hospital waste disposal and monitoring of vessel traffic in coastal waters.

I have to start out by saying something that is obvious: We face a crisis of tremendous magnitude. In just a few short weeks, many of our efforts at the shore, as well as those of the Governor, to improve the image of New Jersey, and the shore in particular, have, in my opinion, gone down the drain. New Jersey has once again, unfortunately, become the butt of garbage jokes, even among our own citizens, and our health and safety are at risk. Our local economy, particularly in the shore area, is at risk, and the quality of life in many communities, for the people who work in those communities, again seems to be at risk. No longer can we afford to turn our backs on the crisis we have created; no longer can we afford to use our ocean as a dumping ground.

I know today's hearing intends to focus on specific issues, but the bottom line is, we have to see an end to ocean dumping. The Governor has said so. While today we are going to be talking about specific proposals, I think the bottom line is, either immediately, or in the near future, there has to be an end to all forms of ocean dumping.

I mentioned that there are basically three topics we wanted to focus in on today because of the recent beach closings. One is the issue of hospital waste. I am preparing

legislation which will do two things with regard to hospital waste in New Jersey. First of all, it will require incineration of hospital waste, either by the hospital itself or by the ultimate waste disposal. Secondly, it will require a manifest system for the disposal of hospital waste, which is similar to what we have now for hazardous waste.

One of the problems we seem to face, both in New York and New Jersey, is that we do not know where hospital waste is going once it leaves the hospital. New York has an incineration system; they require incineration. New Jersey does not. New Jersey may have a better system in terms of disposal, because we require that most infectious and pathological waste is, in fact, segregated, and also sterilized, or autoclaved, as the term is, before it leaves the hospital. But right now, there is really no way of knowing where the hospital waste goes. I think if we require a manifest system in New Jersey which basically puts the responsibility on the hospital, requires that when the material leaves the hospital it is signed for by the waste hauler, and that the ultimate disposal person also signs the manifest indicating where the material went, and we hold the hospital initially responsible at every level for the ultimate disposal of hospital waste, we will have a better system in New Jersey.

I also think it is necessary in New Jersey to include the disposal of pathological and infectious waste not only from hospitals, but from other facilities, such as medical clinics, labs, physicians' offices, veterinary clinics, nursing homes, etc.

This is one of the proposals that I am putting forth today, but I know that other Committee members have put forth other proposals, not only in terms of hospital waste, but also in terms of garbage disposal.

The second issue we want to get into is the whole question of the transportation of garbage debris within the



metropolitan area. We are being told by EPA -- which is not being represented here today, by the way -- that basically there are no garbage barges, in a sense, traversing the Atlantic Ocean from New York or New Jersey to other points, and that if there was a dump of hospital waste and garbage off the coast of New Jersey that caused the closing of our beaches the last couple of weeks, that that was some sort of rogue garbage barge, or illegal dump.

Well, I would like to see EPA, as well as our DEP, or New York State authorities, find a system -- a way of monitoring what exactly those garbage barges are doing. Where are they loading? How much are they loading? When they go out to sea, where are they going? We have to have a system. Some have suggested the black box system we use with sewage disposal barges, and I think it is incumbent upon EPA, either by regulation or through other means, to enact some sort of system of monitoring the garbage barges, so we know when they are loading, where they are going, and when they dump, and not just have it said, "Well, we don't have garbage barges out at sea."

Finally, the last thing I wanted to mention -- and this is something the Committee has looked into before at the first hearing we held back in June, I believe, of 1986 -- the whole question of Fresh Kills. We are being told by EPA that the problem we faced at the Jersey shore the last couple of weeks is probably not from Fresh Kills -- probably not from those barges that traverse the boroughs of New York City and take garbage out to Fresh Kills, which, as you know, is the only landfill that now exists in the City of New York -- but is rather an illegal dump at sea. But we in New Jersey at the shore are constantly faced with the problem of Fresh Kills. We still have garbage debris floating down from Fresh Kills, either from barges that are unloading or having the material fall off them on the way to Fresh Kills, or from the Fresh Kills Landfill itself.

One of the major achievements, I think, of this Committee last June, was to accomplish having both the Attorney General and the Interstate Sanitation Commission join the suit that Woodbridge Township brought against New York City, to try to provide some sort of containment facility and some sort of a way of managing the material that was at Fresh Kills Landfill in Staten Island. I would like to know what the status of that lawsuit is. We have the Interstate Sanitation Commission here today; we also have the Attorney General. I would like to see exactly what New Jersey is doing about stopping the continual flow of garbage at Fresh Kills.

With that, I want to start the hearing. I would like to ask each of the Senators who are here now if they would like to make a statement, and then I want to announce that we are going to deviate a little bit today from our usual format, because we have had, I guess, concerns expressed in the past by citizen action groups, environmental groups, and private citizens, that we always allow the State bureaucrats, as it were, to go first, and we allow the private citizens and citizen action groups to go last. So today we are going to start out with the citizen action groups. We will try to get some representatives from them to start off the hearing, before we move to the State agencies and other legislators.

I would like to start off with Senator Gagliano, who has been at every one of these Committee meetings and has been totally cooperative in every effort of this Committee. He has also introduced some legislation. Senator Gagliano?

SENATOR GAGLIANO: Thank you. Mr. Chairman, members of the Committee, ladies and gentlemen: I apologize for being a little late. I do have a brief statement I would like to make.

In recent weeks, we have all seen the disgusting situation with respect to garbage washing ashore on New Jersey beaches. We have also seen a flurry of activity by



legislators, including myself, to try to find legislative solutions to the problem. I endorse all of these efforts. Every legislator wants to help to solve the problem. That is what we are elected to do, and that is what we are going to do.

But I think we have to look at legislation from almost a different perspective now, not so much law creating, but that which would enforce the laws we already have. I think we have a substantial body of law against ocean dumping, and judging from what we have heard in the past few months, we are going to have some more. But the laws really don't mean that much unless they are enforced.

Several weeks ago, I proposed -- as a result of a hearing we had with this Committee -- that all sludge-dumping vessels be required to have a black box, or, as the Coast Guard calls it, an ocean-dumping surveillance system, so that the vessels could be monitored by the Coast Guard every time they leave port and when they actually release their cargo. This would enable government officials and enforcement officials to know whether or not each vessel actually made it to the 106-mile dump site, which has begun, and which will be required as of January 1, 1988..

I am pleased to report that I recently received a letter from Captain Robert C. North, Captain of the Port of New York, United States Coast Guard, informing me that the Coast Guard is amending its permit requirements to require such surveillance equipment -- pending its commercial availability -- on every ship and every vessel that dumps sewage sludge. I congratulate the Coast Guard for its prompt action, which may eliminate the need for State legislation, and I am confident that these black boxes will, indeed, become commercially available in the near future.

I recommend legislation to this Committee, and to the Legislature in general, to give financial incentives to any companies, in or out of this State, which will expedite the

commercial development of these surveillance systems. Only yesterday, I called the Allied Signal Company, which is sometimes known to people as Bendix here in New Jersey, and I asked them if there was any way they could take this into account and become involved to try to make these black boxes available commercially. They are not involved now, and there are only three of them in operation, according to what I learned from the Coast Guard. They have been manufactured by Coast Guard Research and Development, and we do need a commercial manufacturer of these. That should come, I hope, soon.

I noticed that Senator Van Wagner indicated he thought we should have the same kind of surveillance system on any vessel which is doing anything in terms of carrying solid waste or liquid waste, and I certainly endorse that.

I applaud my colleague, Jim Hurley, for his proposal of a Marine Crimes Investigation Unit to be placed within the Division of State Police. I think that would be a step in the right direction. I would like to go even further. I feel, being a shore legislator, although none of my towns are now along the shore-- I lost the last one the last time we had our redistricting.

A S S E M B L Y M A N   A N T H O N Y   M.   V I L L A N E  
(speaking from audience): I'm sorry about that.

SENATOR GAGLIANO: I am, too. (laughter) Doc Villane, how are you? (no response) I do think that what we have to have is nothing less than a Cabinet level enforcement agency. I believe we almost need something in the nature of an ocean environmental crimes task force, or strike force. We cannot continue to allow the abuse of our ocean and the abuse of our beaches and be able to say that we are a State which is highly regarded with respect to tourism. We've got to clean up our act in that regard.

I also have a feeling that we are allowing the destruction of our ecosystems. One of the comments that was made to a newspaper reporter, and which was published in one of the local newspapers when they made a tour -- and I believe it was WOR making the tour-- One of the comments was by a physician on the beach. He mentioned the fact that they didn't see any clamshells or other life washing up on the beach, or evidence of other life washing up on the beach at the time. That was a very telling comment, because we can all remember along the Jersey shore all kinds of shells and crabs and things like that being right there on the beach. I just feel, as everyone does, that something has to be done, and it has to be done quickly.

Finally, it is my understanding -- and I hope, Senator Pallone, we can get into this -- that the State of New York does not have a system of -- and I am not quite sure what the word is; manifesting, I believe it is -- manifesting of solid waste or liquid waste from the time it goes aboard a vessel to the time it docks someplace. I think that is extremely important. There may be Federal action necessary. There certainly could be action by the State of New York and its legislature. But, since so much of the waste of the City of New York and the State of New York becomes water borne before it is finally disposed of, I think it is extremely important that there be a manifest system so that we know where every ounce of that garbage is during its entire course of travel, from where it is put on board a vessel, or a barge, to the point where it is either incinerated or dumped, or whatever happens legally. There is that time in-between where I don't think we have a tracking system in New York.

All of our garbage in New Jersey, I understand, is land-bound, but much of what New York generates goes to sea, or is on our rivers and bays, so I think that is something we -- as one -- really have to suggest to the State of New York and to the Federal officials that we do something about.



Thank you.

SENATOR PALLONE: I couldn't agree with you more, Senator Gagliano. In fact, I must say I am very disappointed that the Federal Environmental Protection Agency did not deign to come to this hearing today. We requested that they come, and I did, in fact, make a personal request to the Regional Administrator, but was told that they could not attend.

One of the things that you just hit on, which I think is very important, is the fact that as far as EPA is concerned-- It is my understanding that their position is that other than those barges that are going from the five boroughs of New York City to Fresh Kills, there really are no garbage barges; there are no municipalities in New York that are loading material -- garbage debris -- onto barges and taking it out to sea, either to another landfill, you know, in another state, or outside the country, or wherever, with the exception of that one barge that came from Islip, if you remember. That was in the paper.

SENATOR GAGLIANO: Yeah, but that one-- I just wonder if that one was-- Somebody just happened to track that one, and they couldn't dump it.

SENATOR PALLONE: I think that's the case.

SENATOR GAGLIANO: I really wonder if that is the case, because I don't know how we got all of the medical syringes and supplies--

SENATOR PALLONE: Debris.

SENATOR GAGLIANO: --and garbage off of Atlantic and Ocean Counties, if these things were not supposed to be out there.

SENATOR PALLONE: Well, that's it. That is one of the questions--

SENATOR GAGLIANO: So, there is, I believe, something going on.

SENATOR PALLONE: That is what we are going to ask DEP if they can help us out on, because basically what EPA is saying, is that they do not -- that there are no garbage barges out there, other than the ones that are going to the Fresh Kills. I don't think that is true. I think that some system -- as you said -- has to be established for knowing when these barges load, where they are going, and when they unload.

As far as the hospital waste is concerned, neither New York nor New Jersey has a manifest system similar to what we have for hazardous waste. The legislation that I mentioned previously that I am proposing would implement that in New Jersey for hospital waste, and we would like to see the same thing done in New York State.

But, as far as the garbage barges are concerned, there is a complete denial that they are even out there. I didn't mean to go on. Senator Hurley?

SENATOR HURLEY: Thank you very much, Senator Pallone. I am anxious to hear responses to some of these proposals, just as you are. This week, we have proposed, as Senator Gagliano said, a piece of legislation that would create a Marine Crimes Investigation Unit. The reason for zeroing in on this particular area of response, is because of the enforcement problem and the cast of characters that play in this whole garbage disposal business. I'm sure your manifest system falls right into that, because who picks up the waste from the hospital, for example, and where does it go from there? There may be several players in that game before it is finally disposed of.

That is why I believe we have to highlight, not only for the public's protection, but for our own justification, our enforcement activities with a Marine Crimes Investigation Unit. I'm sure the Attorney General's office, I'm sure the State Police are going to respond to this, and I'm sure they have an effort ongoing now. But when you think of the

magnitude of the problem, and you think of the resources, for example, the equipment, and the manpower, I think, as a Committee, I would like to see us address that, and perhaps endorse that proposal, because I think it is one of the things that can be effective.

Secondly, I think we have to institute a bounty system, much as we do here on land in our Crime Stoppers Program in many communities. I think we need to, and I noticed in the morning paper that the Governor has offered a \$5000 reward-- I think we need to offer a bounty system for those people who are caught and convicted. We can utilize all of the citizens of our State, particularly those who live along the coast, to help us in this enforcement endeavor, because the ocean is so large and there is so much opportunity for illegal activity.

Thirdly, I believe we need to increase our penalties. I know we have penalties. I think they ought to be increased substantially. I am talking about those that we can increase within the State's jurisdiction.

Fourthly, we have to have -- and I am disappointed, too, today that the EPA is not going to be here -- the cooperation of Federal officials, because of the condoned activities now by EPA. For example, the sludge dumping that we know about, and the burning of material -- wood, for example -- that is incinerated at sea. We need to have their cooperation, so we know -- so our officials know -- what is being done. Perhaps they do now. We will hear from them, I'm sure, in a few minutes.

These are four major points, in addition to those which have been made by Senator Pallone and Senator Gagliano, that I would like to see addressed by some of the witnesses here today. I would like the Committee to seriously address, and if they can, endorse, this Major Crimes Investigation Unit proposal and instituting a bounty system.

I thank you very much, Senator, for allowing me to make these comments at this time.

SENATOR PALLONE: Thank you, Senator Hurley. Senator Van Wagner?

SENATOR VAN WAGNER: Thank you, Mr. Chairman. As the Committee may or may not know, last week I proposed a multi-state approach to address the problems of monitoring and surveillance regarding ocean dumping. I see now that there have been several proposals. Certainly it is important for all of us to realize that the manifest system, or the cradle-to-grave philosophy, that the Legislature adopted some years ago relative to hazardous waste-- It is important in terms of attempting to track the waste. I can tell you what my theory is, and I will say it publicly: This was definitely an illegal dump. I have good, at least indications, that much of the hospital waste that is disposed of -- although there is a requirement for incinerating waste -- is put into containers, which are easily obtainable at low prices, and dumped into the ocean.

Now, I think all of us will move forward as a Committee, and singularly, and collectively, and otherwise, to try to put a stop to this, and try to increase our monitoring and surveillance. I have made several proposals, and I am sure the other Senators on the panel will make proposals. Sometime next week, I will be meeting with Senator Franz S. Leichter in New York, to discuss a joint effort on the part of New York and New Jersey. Sometime a week or so later, I will be meeting with legislators from Connecticut. Legislators from Delaware have also indicated their interest, and I am sure we will collectively come to a consensus agreement on what has to be done, and I am sure we will speedily pass legislation that will create harsher penalties, closer monitoring, greater surveillance, and cradle-to-grave manifest systems.



I think we should focus on one objective and goal: Let us put a stop to ocean dumping once and for all. Let us move forward as quickly as we can to stop ocean dumping -- period. There are techniques that are available to all of us. There are proposals to build incinerators to incinerate waste. Obviously, these proposals are being objected to, as much as proposals to site landfills. We have recently enacted a recycling act which, hopefully, we will be able to implement. Many communities are beginning to implement it. Hopefully, it will be successful. There are legislative proposals on both sides to go to the source of the kind of pollution we are facing, whether it is the regulation of the manufacture of plastics, which has to be dealt with at the Federal level primarily, or whether it is the elimination of other types of materials. Those are possible long-range solutions.

But it is my view, Mr. Chairman-- I hope the Commission that was formulated under, I believe, Senator Lesniak's resolution, which created a special panel to begin to study the problems and come up with answers to the problems of solid waste disposal and solid waste -- the waste stream flow-- I hope the Governor will fill that panel out with his two appointments, which I understand are supposedly forthcoming at some point.

We can, as a Legislature, address all of these problems. I see Dr. Villane back there. Some years ago, he and I sat on a bistate panel dealing with problems in the New York bight. I think we will definitely get the cooperation of our colleagues in New York and other states. By no means do they feel that this is not their problem. I had extensive conversations with Senator Leichter and Assemblyman Maurice D. Hinchey, but we have to focus, I think -- regardless of what legislation comes out of this Committee -- on the singular goal of stopping ocean dumping. There are technologies available. What it is going to take now, I believe, is the will and the

commitment of every official, every environmental group, every member of the public to focus on what I consider has now become more than a mere impact on our -- or, I shouldn't say mere -- more than an impact on our economic well-being and our environmental well-being. We are now facing what may well be a life-threatening situation.

I have presented bills to you already. They are under draft. As I said, one of them will expand the surveillance and monitoring capabilities of the marine police, under the Division of State Police. I have talked to Colonel Pagano, Major Buriello, Captain Momm. I have talked to officials in New York. They are willing to introduce similar legislation. Hopefully, we will get the same kind of response from the other coastal states.

But all of us should make the singular resolution that as quickly as we can, we are going to pull this material out of the ocean; we are going to eliminate the necessity of barges having to go 106 miles.

With that, Mr. Chairman, I will end my statement.

SENATOR PALLONE: Thank you, Senator Van Wagner. I just want to mention again that Senator Van Wagner has been to all of our Committee hearings over the last year, and has, you know, been 100% behind the efforts of the Committee.

I said previously that we want to change things a little today, and start off with some of the citizen action groups, who in the past have always been at the end of the agenda. So, with that in mind, I am going to call Mr. Ken Brown, who is representing the New Jersey Environmental Federation.

I would like to make the time limit clear. We are hoping to limit each speaker to 12 or 13 minutes -- maximum 15. Okay? If you can do less, that is even better.

K E N N E T H B R O W N: I will be much quicker than that; much quicker.

Good morning. My name is Ken Brown. I am the Director of the New Jersey Environmental Federation. The New Jersey Environmental Federation is a coalition of about 30 community environmental and labor groups throughout New Jersey, who are committed to seeing our environmental lot strengthened and enforced. We have 30 groups, representing well over 100,000 individuals, and we also have about 10,000 individual members here in the State of New Jersey.

I would like to commend Senator Pallone as Chair of the Committee for his leadership on ocean pollution, and also the other members of the Committee here for their efforts.

It is very clear that we have an emergency situation, and it is time to start treating it as an emergency situation. Dolphins are dying, beaches are closing, people are saying they are getting sick from swimming in the ocean. People do not want to swim in the ocean any more. This not only has public health consequences, environmental consequences, but it has economic consequences, as everyone well knows here in New Jersey.

The reason the ocean continues to be used as a dumping ground is because it is cheap and because it is easy. We need to immediately put a stop on ocean dumping and declare an all-out war on ocean pollution. Immediately, not next year, not the year after, but right now. There are clear steps that can be taken immediately to deal with the many, many sources of ocean pollution. It is not just the garbage; it is not just the hospital waste.

I would like to talk about a few of those. Allied and duPont still dump acid waste off the coast of New Jersey -- 100 or so miles off. EPA is planning to allow them to continue doing that. They have tentatively approved that permit, despite massive citizen opposition. We need all of you to object to that permit. That permit should be denied. We have seen no leadership from our Administration here in the State,

or any talk of where they stand on that permit. We need to stop that. That is one thing that can happen right now. It is a permit that is pending.

A second thing: Ciba-Geigy is still the only industry that has a pipe line that discharges directly out into the ocean on the entire East Coast. We need to put an end to that. We can take steps to do that now. They want to use that pipe line to possibly clean up the Superfund site they have there. They want to pump out the contaminated groundwater, treat it, and send it out into the ocean. That needs to be stopped. A very concrete thing we can do immediately.

A third thing: Sewage sludge. We will dump millions of tons of sewage sludge. We are moving it out to 106 miles off the coast. That is not good enough. That permit is supposed to end in 1991. We met with Commissioner Dewling only a couple of weeks ago, and he indicated that there are no plans to stop ocean dumping of sewage sludge. Our State has no plans to stop the ocean dumping of sewage sludge. We need to start now, if we are going to get the sewage sludge out of the ocean. We need to make a commitment right now that we are going to get it out, and we are going to stop it.

Sewage treatment: We still have sewage treatment facilities that are not up to the requirements required by the Federal Clean Water Act. We have them in New Jersey; we also have them in New York. We finally have money for those facilities to upgrade; however, that process is moving along. We need to find out exactly what that schedule is for upgrading those facilities, and if it is going to take more money. We need to find out what it would take to speed up building those sewage treatment plants. If it takes more money, let's pay more money to do it, but let's get it done and make sure that those sewage treatment plants are upgraded immediately.

We still have massive amounts of toxic pollution that are being discharged by industries that feed into the Raritan



River, the Hudson River, the Delaware River. They are all a potential threat to the ocean. We need to take immediate steps to reduce toxic pollution, to require industries to reduce toxics at the source. We have the technology to do it. We need to make sure that it happens.

In addition, there is a massive plastics problem out in the ocean that we know of. We should take steps to ban all products for which there is an alternative that can be damaging to the ocean or marine life. We can do that immediately. Let's take the steps. There is no reason we need these plastic six-pack rings. We can deal with our cartons in other ways. Let's take steps immediately.

Finally, all of you had a number of very good proposals on how to deal with hospital waste, and we need to deal with that. The final thing is that even with all of these steps -- and everyone has spoken to it quite well here this morning -- we need aggressive enforcement. Some of the things I talked about are actually legal dumping. There is also illegal dumping. So, we need to stop both the legal stuff, and we have to stop the illegal stuff -- the illegal dumping that is going on there.

We need to put out massive amounts of money, so we can have an army of inspectors and enforcement officials out there. People drive 55 on the highway when there are cops out on the highway patrolling. They drive 70, 75, 80 when the cops aren't out there. People will dump in the ocean when we are not watching. If people are out there, they will stop dumping in the ocean. I think we should deputize a thousand citizen activists along the shore out there, so they can make an effort and be the eyes and ears. The people, more than anyone, want to see a stopping of ocean dumping. The idea for a bounty, I think is tremendous, for a reward for people who uncover information that leads to the conviction of an ocean dumper. We can put that in place immediately.

Those are some steps that can be taken now. I can't stress strongly enough that the time to act is now. Pretty soon the summer season is going to be over. The election will pass, and people will go back and do other things. It is important to recognize that we have an emergency, and if we don't take steps now, we are going to be back here next summer, holding the same hearings, talking about the same issues, and talking about the same problems. There are very concrete things that can happen, and I urge all of you to do everything possible to do them immediately.

Thank you.

SENATOR PALLONE: Thank you, Ken. I would just like to ask you two questions: First of all, you mentioned about the 1991 deadline for the 106-mile sewage dump site. The way I understand it now, that dump site has been designated by the Federal EPA for five years, and that is the 1991 deadline. It could be redesignated or renewed beyond that. We are going to have to ask DEP why this is the case, but I would just like to know, what do you think the reason is right now why DEP is saying, "Well, we can't plan beyond that. We can't say right now that we are going to eliminate ocean disposal"? To me, that is the most important point you made -- that the State of New Jersey, right now, is not saying, "As of 1991, we want to be out of the ocean with the sewage sludge." They're saying, "We'll probably have to continue that." What is the reason? You know, what can we do about it? Obviously, the Federal government would ultimately have to decide to eliminate both New York and New Jersey, and say, "We are not going to allow the dumping any more." What can we in New Jersey do? Why is it that our DEP is saying that?

MR. BROWN: Well, I can't speak for DEP.

SENATOR PALLONE: They'll have to answer that.

MR. BROWN: Yes, I think you will have to ask them themselves.

SENATOR PALLONE: Why is it a suggestion to continue ocean dumping, with all the devastating effects?

MR. BROWN: I think it is outrageous to expect to continue ocean dumping. We are the only part of the country that puts our sewage sludge on a barge and trucks it out into the ocean and then dumps it. In Chicago, they don't have an ocean to dump in; in the heartlands of the country, there are very constructive things you can do with sewage sludge -- turning it into compost, turning it into fertilizer. It actually provides valuable nutrients that can be used on the land to enhance farmland. This is land that in many cases is starving for nutrients. In Philadelphia, they take their sludge and they reclaim abandoned strip mine land, in the western part of the state.

So, clearly there are alternatives. One of the things that is a problem here in New Jersey is, because of the lack of controls on toxics going into sewage plants, the sludge oftentimes has heavy metals in it, which makes it more difficult to adopt land-based alternatives. However, we need to make plans right now-- Industries are not supposed to discharge toxics into sewer systems. Sewer systems are not designed to do that. So we need to take steps now to prevent toxics from going into the sewer system in the first place.

SENATOR PALLONE: So, Ken, does that mean that the pre-treatment-- I mentioned previously that we were going to talk about pre-treatment today, but that is going to be postponed now until another hearing towards the end of September. Then pre-treatment would be a prelude to our being able to get out of the ocean.

MR. BROWN: I think it has to be part and parcel of the same program. I think if you look at the statewide Sludge Management Plan that comes from the State, pre-treatment -- industrial pre-treatment -- which is removing toxics and preventing them from getting into sewage systems, gets about a

paragraph in that plan. We asked the State, "What's going on here?" and they don't even see pre-treatment as related to sludge management, which is--

SENATOR PALLONE: I am not going to ask you to go on with that, because we are going to devote a whole hearing to the legislation on pre-treatment. The second thing was, you mentioned enforcement. We are being told, for example, that there are no garbage barges out there. I know the enforcement is the biggest problem right now. What is the problem-- We know we can talk about citizen action, and I think that proposal makes a lot of sense -- deputize people, get citizens involved. But what is the reason right now why EPA and the Coast Guard do not have proper monitoring? Is it just financial, that their funds have been cut back?

MR. BROWN: Again, I think you will have to ask them. I was down in Cape May over the weekend, and I read a quote in The Atlantic City Press from the Coast Guard, that said: "We are not a litter patrol. We do not have the ability and the resources to be out there monitoring what is going on in the ocean." So, someone needs to give these people a definite responsibility where they understand it is their responsibility, and the resources that go with it. I mean, it is clearly going to take a commitment of resources to have adequate enforcement.

SENATOR PALLONE: We do have the Coast Guard here today, even though we don't have EPA, so we will ask them. Senator Van Wagner?

SENATOR VAN WAGNER: Ken, just for a moment on the enforcement, I have had a series of conversations with our own State Police officials, and they have indicated to me that if, in fact, we center our resources-- As I mentioned earlier, the members of the New York Legislature have indicated their concern and interest in doing this. If we focus our resources on the docking and loading aspects, and coordinate that with

the surveillance as the barges and the vessels move out, for a reasonable amount of money for personnel -- not excluding what additional equipment may be needed, because that will come as time goes on -- we should be able to very comprehensively deal with surveillance until it leaves our jurisdiction. From there, it is going to take an additional Federal effort and, of course, many of the services that are involved have other missions to carry out.

So, it is going to take an effort on the part of the Federal government -- EPA primarily -- to either commission, or authorize, other kinds of surveillance teams to assist the states that have a limited jurisdiction. Have you talked at all to anyone in EPA, or have you had any discussions with anyone at the Federal level, about the possibility of expanding the Federal surveillance outside of the jurisdiction of the states?

MR. BROWN: I think your point is right. It is not only going to take a commitment from New Jersey, but from all of the other coastal states, and particularly the Federal government. We have not had any specific conversations, and I have not heard of any plans EPA has to expand surveillance or put additional resources out there for enforcement.

SENATOR VAN WAGNER: I think that as part of the resolutions that might come forth in this Committee-- I hope the resolutions concerning the extension of dumping permits are adopted today by the Committee, and that some type of concurrent Senate resolution is on the floor very quickly.

I would like to make one suggestion, if I might, that instead of a hearing process, as we move through this, that we consign ourselves to a working session -- a legislative working session. All of us, at one time or another, have worked in the area of pre-treatment. We know neutralization can take place. I would suggest that we collectively frame that legislation, instead of listening to recommendations that we have a draft



legislative proposal for our next meeting, so we can move forward and adopt that proposal. I'm sure you have one, Mr. Chairman. I have had one for about seven years, and I am sure that other legislators have them.

But I am suggesting that we do that, and make a Committee action out of this, instead of a continuation of listening to what we already know.

SENATOR PALLONE: We had a proposal -- a pre-treatment bill -- that I introduced that basically provided -- or the information and input was provided from the Environmental Federation and Clean Ocean Action.

SENATOR VAN WAGNER: Fine, let's move ahead.

SENATOR PALLONE: We can use that as the basis. Senator Gagliano?

SENATOR GAGLIANO: I just have one comment -- sort of a question: With respect to hospital waste, at one of our hearings on Fresh Kills -- in fact, it was about Fresh Kills; it was held in Woodbridge -- the hospital waste issue came up because there were hospital wastes coming down the Kill toward New Jersey and landing on the beaches. We found out at that time -- I think it was in 1985 -- that the City of New York had ordered that hospital waste would no longer be placed in landfills.

As a follow-up to that, I thought about and discussed the possibility, or the advisability of having each hospital have some kind of an identification on those items which become waste. When those things are found where they should not be, then there would have to be prosecution of the hospital. Unfortunately, you don't like to think about prosecuting hospitals, but they have to be a part of this, or the materials would not be there.

For example, plastic gloves and other materials that go into the waste stream from a hospital could very easily be stamped with an identification -- the name of the hospital is

so and so hospital, so and so New York, or New Jersey, or wherever it is. Then, when those wastes were found someplace where they were not supposed to be, we would have an opportunity to actually trace them. This way, if hospital waste came up-- I know everybody is working on it, but no one has been able to assure tracking it down. That would be one way of doing it. What do you think?

MR. BROWN: I think that we clearly need to track the waste. We do it with hazardous waste, and we need to do it with other kinds of waste, too. If you don't know where the waste is coming from and where it is going, you can't go after the people responsible for where it came from. That would be one way to do that.

SENATOR PALLONE: Senator, when I was talking before about the manifest system that we use for hazardous waste, if we apply that to the hospital waste -- which is what I suggested previously -- one of the most important parts of it is what you suggested, which is that the legal responsibility would be with the original generator, which would be the hospital.

SENATOR GAGLIANO: And the identification would be positive if it were stamped right on the materials they use.

SENATOR VAN WAGNER: That is what a manifest does.

SENATOR PALLONE: You could then go back to them and sue them -- you know, bring charges against them.

SENATOR GAGLIANO: Okay, thank you.

SENATOR PALLONE: Senator Hurley?

SENATOR HURLEY: Ken, do you have any indication, any statistics, on the amount of hospital waste -- the number of incinerators that are now permitted in New Jersey on hospital grounds?

MR. BROWN: I do not have that information.

SENATOR HURLEY: I know there are some. Thank you.

SENATOR PALLONE: Ken, thank you. We are going to move on. I appreciate your coming. I know you have been one of the leading proponents of all the things that were suggested about stopping ocean dumping and, you know, leading us towards a situation where we have no more ocean dumping. Again, I appreciate your coming.

MR. BROWN: Thank you.

SENATOR PALLONE: Now we are going to have Linda Hasbrouk, Executive Director, Save Our Shores. Linda has a very short video, which is going to give us some idea of the material that has been washing up on the Jersey shore over the last week or so, and then she is going to have a statement to go along with that. Linda?

L I N D A H A S B R O U K: Hi. I would like to say good morning, and thank you, Senator Pallone, for holding this hearing today. It has really been unfortunate that in the last couple of weeks, New Jersey has been the focus of attention because of what is washing up on our beaches, rather than what people are doing to enjoy them.

First of all, I would like to say that Save Our Shores has a primary concern of the health aspects of ocean pollution. We are concerned about what is coming up on the beaches, what people are swimming in, and what the ramifications of that swimming contact will be.

I would like to say first that I am impressed with the array of people and agencies in this room today. There has to be a concerted effort by the Legislature, governmental agencies, the people, and the environmental groups to ensure the safety of our people.

First I will read a statement from Dr. Robert Dennis on behalf of the Medical Society of New Jersey:

"Dear Senator Pallone and members of the Committee: I apologize for not being present personally, but my patients and surgery have made it impossible for me to attend. I speak now

for the Medical Society of New Jersey, as well as for Save Our Shores.

"The concerned physicians I represent are certainly hoping that action will finally be taken. The events of this summer have confirmed our most dreaded fears. It has been our contention that the ocean pollution, no longer in question, also brings with it a significant health risk. The hospital waste that has recently washed upon our shores surely represents only a small amount that must actually be present within our waters. There is no excuse for contaminated hospital wastes to ever appear on our shores. We are firmly in favor of any strong legislation that provides significant penalties to both hospitals and haulers who are unable to reassure us that their contaminated waste has been meticulously disposed of.

"The hospital that I work at -- Jersey Shore Medical Center -- should be used as a model, since it has for many years incinerated on-site all of its contaminated waste. I see no reason why this relatively small volume of material cannot be handled in a similar fashion by all hospitals. I put this before you for consideration. Even the transport of these materials carries with it a risk, and makes it almost impossible to police it from getting mixed with other materials. Perhaps a law clearly defining contaminated waste and requiring that the hospitals burn it on-site would be the safest way to assure us that the swimmers along the Jersey coast, though subject to other waste, at least will not be subject to the potential horrors of permanent injury from life-threatening diseases.

"New Jersey must make it emphatically clear to New York that we will not tolerate their contaminating our populations with the potentially most disease contaminated materials known. We will not tolerate New York sewage for much longer, either.

"Please count on our support for any immediate legislation put forward. Sincerely yours, Robert Dennis, M.D., for Save Our Shores and the Medical Society of New Jersey."

Now, as the Director of SOS, I would like to say that Bob Hartman, from Monmouth Cablevision, who is here, and I were on the beach in Spring Lake. We spent about two hours there. The beginning of this tape will show you one of the officials there discussing whether or not the beaches should be closed, and then it will show you what we picked up on that beach. Unfortunately, we missed on the tape, because we didn't get there in time, the dog carcasses, and something in a plastic bag that was very disgusting looking. We never did hear exactly what that was. There is a concern about what people are swimming in. (Ms. Hasbrouk starts tape at this point; conversation between Bob Hartman and Daniel Finn -- phonetic spelling.)

"We are here at Spring Lake the next day. Yesterday, the beaches were closed because debris was washing ashore. Daniel Finn, Beach Manager for the Borough of Spring Lake, explained what prompted him to order the beaches closed yesterday."

"Bob, yesterday, around four o'clock, we saw an unusual number of blue plastic bags. Throughout the day there had been reports of some hypodermic needles, syringes, a lot of plastic products, and it just got to the point at four o'clock where we felt that with the strong east wind, and the wood that had washed up during the day-- We felt it best at that time to close until we got further word from the Health Department."

"So this could be harmful to the bathers?"

"I think there is a strong possibility that it could be harmful, especially, you know, something like hypodermic needles, syringes. We got some vials, some things that we are not sure of. That is one of the reasons we called Walter Strucek, from the Monmouth County Health Department. He came



down at six o'clock and took our samples, and right now we are awaiting word from him on just how dangerous they were."

"Now, what is going on today? What are the conditions today?"

"Today, the conditions right out here-- The water really can't look much better than this. It's clean; however, the shoreline is awful. We have, again, a lot of small wood, which we believe is a result of yesterday. The water is a little stagnant this morning. It is not really going anywhere. The water conditions are good, but right now what we are worrying about is, we have a high tide that is coming up past last night's high water mark, and we're thinking that some of yesterday's debris is going to go back out into the water today."

"So, you might close the beaches again today?"

"Yes. Right now I just made a phone call, about 10 minutes ago, to Shawn McCarthy, the manager at the Spring Lake Bath and Tennis Club. His beach is directly affected by an area that is eroding. They have a lot of debris. Our Police Department just picked up some hypodermic needles and a bag containing some unknown substance. We're not really sure what it is. I advised Shawn to close it until they feel the water is absolutely clear."

"Can you keep the people out of the water and not close the beach?"

"Oh, yeah, definitely. We had that stated in our (indiscernible). It is a very tough thing to do, especially on a nice day like this. I think, you know, safety comes first; safety in the water, and what's washing in the water, and the water conditions themselves. So, actually all the people today that buy a daily badge-- We are advising them in advance that there is a possibility that the water may be closed for all or part of the day."

"Linda Hasbrouk, Director of Save Our Shores, took me to the beach at Passaic and Ocean Avenue for a look at some of

the debris that has been washing up on shore. Let's take a look at what we found in approximately five minutes. A closer look reveals Tampon applicators, syringe caps and barrels, crack and drug vials, IV solution bags used in hospitals. This patient I.D. bracelet with the name 'Bobden' on it, and this, which we can't identify.

"Officials are not certain where the wood is coming from, but suspect the hospital waste is coming from barges unloading garbage at the Fresh Kills Landfill on Staten Island. The debris is spilling into the water and washing up on our Jersey shores. Some people chose to cool off in the water today, regardless. Others chose to just soak up the sun, and cool off under the showers at the South End Pavilion.

"Finn expects a large crowd for the weekend because of the warm weather predicted."

"The way the east wind looks right now, it looks like this may stay for a few days. It's hard to say. The way it looks right now, we could have a pretty good ocean for the rest of the weekend. You know, what my crew has to work very hard on for the next few days, is cleaning that shoreline up. Hopefully, we won't get the same stuff that washed in Thursday and Friday out in the ocean again for Saturday and Sunday."

"So, you're encouraging the people to come down then?"

"I would encourage people to come down and take a look at it before they actually make a decision. You know, maybe just-- Most of the time I am on the boardwalk; I look at it from the boardwalk. You can really make a pretty good judgment for yourself, as far as, you know, sometimes just the odor. Now, the other day, we had a bad odor coming off this one jetty, with the heat baking at low tide. Sometimes it might be good just to come down and take a look at it from the boardwalk, and then make a decision. But the way it looks right now, we are supposed to have a pretty hot weekend."

"This problem is not exclusive to the beaches in Spring Lake. Many beaches along the coast are experiencing the

same thing. Some choose to close--" (Ms. Hasbrouk turns tape off and resumes speaking)

This was on a Friday afternoon at about 2:30. Bob Hartman was with me. We were two beaches away from where these people were swimming, picking up some of the things. A representative of the Attorney General's office, Bob Honecker from the Monmouth County Prosecutor's Office, and Walter Strucek from the Monmouth County Health Department, came to my office on that Monday and took the things with them for possible evidence.

It was really kind of upsetting to me personally that people were swimming -- children were swimming -- two beaches away from where the stuff was coming up. Fecal coliform is a standard at this point in time for bacteriologically sick water. There have to be some other standards. I would not want my children swimming in water where there were syringes a beach or two down, because it is not just a concentrated thing. When you have a dump, it will spread out over the area.

We would really like to see some enforcement -- some legislation to provide enforcement, to make sure that we are not swimming in anyone's waste any more, be it solid waste, or whatever, We are tired of it.

Save Our Shores has kind of chosen as a key phrase, "We want our ocean back." We are really here today to look to you to help us to do that. Thank you.

SENATOR PALLONE: Linda, I just want to ask one thing. I know we have to move on. We are mentioning the hospital waste and the different debris that is washing ashore as a result of this incident, which probably comes from an illegal dump at sea. Being involved in Save Our Shores, to what extent do you see the phenomena of hospital waste and this different material washing up on a regular basis? Is it just something that has happened the last week, or is there evidence, through your group, that there is an ongoing problem?

MS. HASBROUK: There have been problems for the last few years, and Save Our Shores became involved in April of '86. It was just that basically people were tired, the doctors were tired, of what they were swimming in, and what their children were swimming in. It has come to the point where it is no longer, "Where is it going to come from?" because it's here, via bacteria. We have, in the last two weeks, been logging about 100 calls a day from citizens from Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia. We got a call last night from a woman in Columbus, Ohio, and a letter from a woman in Wisconsin, who were swimming at the Jersey shore, and who became ill.

SENATOR PALLONE: And all this is being used as the basis for the Department of Health's Ocean Health Study that is being conducted. You are contributing to them.

MS. HASBROUK: We are using this as the Logbook Study for Save Our Shores, which they are doing independently. The Department of Health, to my understanding, was surveying beaches along the Jersey shore from Atlantic, Cape May, Monmouth, and Ocean Counties. We really haven't gotten a lot of information from them. I don't know exactly what they are doing. I hear they are surveying beaches on the weekends, hopefully to gear up for a larger scope to the study next summer.

We are just concerned that there are people right now-- We are getting calls, as I said 100 a day, from people who are concerned. It has to become a very imperative issue that there is a problem, be it from sewage, hospital waste, or whatever. We have had calls from people who have been harpooned with syringes, and they are not very happy about it.

SENATOR PALLONE: What we are going to do is-- We do have the Department of Health here today, so maybe they can give us some insight into the status of the Ocean Health Study,

as well as comment on the legislation we have proposed for hospital waste.

MS. HASBROUK: That would be very nice.

SENATOR PALLONE: I want to thank you for coming, especially with the video, and for all your efforts with Save Our Shores. Thanks again.

MS. HASBROUK: Thank you.

SENATOR PALLONE: I want to move on and get to the different agencies -- DEP, the Department of Health, etc. However, before we do that, we have some legislators who came today. They are not members of the Committee, but they would like to testify. Before we move on to the agencies, I would like them to have an opportunity to make statements, because they do have to leave. I am going to start with Senator Bill Gormley, from Atlantic County. Try to make the statements as brief as possible, if you can.

SENATOR WILLIAM L. GORMLEY: Frank, I will limit it to the same amount of time that you gave yourself. (laughter) No, I'll be nice today, Frank. Frank and I work very well together.

SENATOR GAGLIANO: I thought you were reformed.

SENATOR GORMLEY: You told me to do that to Frank.

SENATOR VAN WAGNER: Why are you being nice today?

SENATOR GORMLEY: Seriously, I think the Committee -- its Chairman and its members -- is doing a great job, in terms of bringing out ideas and concepts. There is an idea I have that isn't original. It is an idea that has been used in other regulatory matters of this nature. It has been touched on peripherally in other areas. It deals with the matter of waste from hospitals.

Now, I think we have all been playing -- well, it isn't a game, it's an unfortunate tragedy -- at trying to figure out how much waste there is. Some people say there isn't that much hospital waste in or near our shores. Well,

that is similar to saying there was only one fish in the movie, "Jaws." The perception is out there, and once it starts, it has a profound effect not only upon the economy -- the tourism economy of the State -- but also it has an effect upon those residents and those visitors who make use of those beaches, and the trauma and concern they have over the health, safety, and welfare of the ocean.

All of the ideas that have been mentioned so far are obviously of merit, and they have been well-researched. However, I think there is always the necessity to put the hammer at the top of those ideas. And, what we have to do is call for an amendment to a 1972 Federal bill -- the Marine Protection Research and Sanitary Act -- and provide for strict liability for the hospitals in question.

We can talk about monitoring. We can talk about citizens monitoring; we can talk about Federal agents and State agents monitoring. However, whenever you have something of this nature -- whenever you are monitoring an ocean -- and we see it in the case of Miami and the drug traffic -- you are talking about an enormous task, in order to bring about the regulatory process. What you need is a very simple formula at the very beginning of the process. If the waste started at your facility, you're liable. "Oh, but we have an excuse. We weren't negligent." No, no, we do not have the time to prove it. We have seen the complaints we have had to deal with, for example, with the ECRA legislation in the State of New Jersey, but ECRA works. Why? Because the sites get cleaned up.

Is it somewhat arbitrary? Yes, it is. Is strict liability arbitrary on occasion? Yes, it is. But in this particular circumstance, if we are going to make all of the ideas you have viable, it is necessary at the top to start with a concept that works down and makes it easier for the regulators, and makes it easier for all of these other programs and the manifest system that you brought up, to work.



Consequently, that 1972 Act-- I would call upon the Committee -- and I am making this request to Congress and our United States Senators -- that that amendment be made; that it be made in that bill. We don't want to get confused with ECRA, and you don't want to be confused with Federal legislation. What we want to do is say, "Here is a bill that deals with the oceans. Let's provide for strict liability in the case of hospital waste." I think it would also be incumbent upon myself -- and I will introduce this bill -- that there be strict liability in the State of New Jersey, as it pertains to hospital waste coming from our facilities. So, we are not just pointing the finger at one state or another.

We can negotiate all day long with other states, and we have negotiated regarding sewage from New York City since before Jim Hurley was born, it seems. It has been a long time. They always say they are going to deal in good faith, but, you know, it just never seems to happen. It is time to take advantage of our Federal legislators, who have very good positioning on various committees, very good positioning on the appropriations committees, and attach a rider. We have to establish the concept of strict liability, because as long as you give any facility the ability to make an excuse, they are going to get out of it. That is the type of hammer at the top that is necessary.

All our actions fall into place, once that change works. We have seen it work. I don't care for strict liability as a concept, but there are certain instances where the general health, safety, and welfare of the public goes so far, that it is necessary to implement something of that nature.

Frank, it dovetails right into what you are talking about with the manifest system, and it puts even more meat into it.

SENATOR PALLONE: That is what I was going to ask you, Bill. When we talk about using the manifest system for

hazardous waste, and putting the responsibility on the hospital, or the generator, and all along the line, as we do with hazardous waste, for hospital waste, how would this dovetail into that?

SENATOR GORMLEY: It dovetails because on the Federal level, you now have the manifest system, but you also have strict liability. So, what you have is a circumstance where they might say, "Let's prove we weren't negligent." Then we are going to enter into-- Well, it is another annuity program for members of my profession, because then we would go back and forth proving who was negligent or who wasn't negligent.

There are certain times when the right to a defense should not be allowed. When someone makes use of those types of materials, they should know that if they come up in the ocean, they are liable -- period. And, do you know what is going to happen? It is not going to show up in the ocean then. It is going to be incinerated, and it is going to be taken care of. Think of the money. If strict liability works in certain circumstances -- and this is one where it is ideal-- If you look at the regulatory costs to monitor an ocean-- Look at the problems we have had with midnight dumping in the Pinelands, and things of that nature. Look at times where we have tried to do this. The regulatory costs are bizarre. But now, when you see a film like that, and you see a tag, and you find the hospital, that's it. They are not going to say, "Oh, we gave it to a guy who picked it up in the truck, and he is now bankrupt." I don't want to hear it.

We have had a learning process in New Jersey, a very rigorous one, as it pertained to our dump sites and landfills in the State. And now is the time to apply all of those lessons, and apply them in this area. The way you deal with problems of this nature is, you allow for no excuses. As I said, I am not a big proponent of strict liability, but when it comes down to people like ourselves -- legislators like

ourselves -- and the members of the public behind me, going back and forth over how to monitor an entire ocean, then I say you have to mix that with a simplistic -- some people might call it -- but an effective hammer at the very top, that makes the manifest system-- In fact, as you've said, the manifest system is a great idea, but at the same time, on the Federal level, it is strict liability -- both. And that is what you have to have, because there is no other way to do it, or we are going to wind up like the patrol boats off Miami, unless you have a hammer at the top to make sure that it gets implemented.

SENATOR GAGLIANO: Senator, excuse me.

SENATOR PALLONE: Richie had raised his hand first -- Senator Van Wagner.

SENATOR GAGLIANO: Go ahead.

SENATOR VAN WAGNER: I, too, believe in strict liability. In fact, that belief led me to oppose the recent changes made in the products liability law. I am just interested in knowing, in applying the theory of strict liability, as you suggested, would you make that applicable to all types of potentially hazardous waste, in addition to hospital waste?

SENATOR GORMLEY: Right now, I am bringing up the hospital waste, because you are talking about a system in which you can have monitoring, and in which you would know the targeted groups, who would know well in advance if it washed up what they would be dealing with -- that they would be liable for the damages that might be incurred.

Obviously, I would be willing to explore other areas, because if we are talking about a category and that category happens to be the ocean, I think we could provide for strict liability in other areas. But the hospital waste is one area, I am quite convinced, where it would be most effective.

SENATOR VAN WAGNER: I guess what I am asking is, would you consider extending the theory of strict liability to

generators of all types of hazardous waste, which, in fact, we have found washed up on our beaches?

SENATOR GORMLEY: We have-- In other words--

SENATOR VAN WAGNER: We don't have that theory in New Jersey right now.

SENATOR GORMLEY: Well, we have it on the Federal level with RCRA -- we have strict liability in place. In other words, we have in RCRA a strict liability bill with a manifest system. What I'm saying is, supplement what Frank has called for, and take what we have in hazardous waste on the Federal level -- now in hazardous waste -- and extend it to hospital waste, but don't put it under RCRA, put it under the existing Marine Protection bill, so that it is in the appropriate category.

But, in terms of looking at other forms of waste that could possibly let go in the ocean, yes, I think strict liability is the way to go.

SENATOR VAN WAGNER: Will we have to then-- You know, I am not an attorney.

SENATOR GORMLEY: You're not?

SENATOR VAN WAGNER: Except for the degree that you guys have given me. Would we then have to change the notion of the state-of-the-art defense contained in the products liability law we now have in the State?

SENATOR GORMLEY: You have to understand that what I am doing is, I am calling for the action to be taken on the Federal level, so that would supercede our state-of-the-art--

SENATOR VAN WAGNER: So, you would--

SENATOR GORMLEY: Yes. State-of-the-art would have to do with the manufacturer. We're talking about a user, who doesn't touch it at all. But, it would be Federal, and totally above-- Let's face it, we can talk about negotiating with New York all day long. If there isn't a strict liability system of sorts there-- That is what brings them to the table and really gets them to negotiate.

SENATOR VAN WAGNER: I believe they do have strict liability.

SENATOR GORMLEY: They could have strict liability in certain forms of manufacturing. I think you would find that they would be able to interpose-- I think you would find simple negligence in cases of waste when moved by haulers, and things of that nature.

SENATOR PALLONE: Senator Gagliano, and then I want to move on.

SENATOR GAGLIANO: I like your ideas. I would only suggest that whatever we do, in order to get positive identification, the hospitals involved would have to have identification of their materials, so that when they leave the hospital as waste, we would see the name of the hospital on that waste.

SENATOR GORMLEY: I have discussed this issue with DEP, and one of the things we are considering is making use of hospitals which, in some form or another, might make use of certain Federal moneys, that is, a part of their receipt of the Federal moneys, and that they also provide this information. You have to tie it to the leverage of liability and the additional leverage of the income to those facilities.

SENATOR PALLONE: Senator Hurley?

SENATOR HURLEY: Senator Gormley, why wouldn't you need a corresponding piece of legislation for the State's jurisdiction?

SENATOR GORMLEY: Because it would be a Federal bill. For example, the State, or the party being injured, could go to the Federal District Court then, and that's it.

SENATOR GAGLIANO: You should have both.

SENATOR GORMLEY: You should have both.

SENATOR HURLEY: That's what I think.

SENATOR GAGLIANO: A three-mile limit.

SENATOR GORMLEY: I am proposing that we do it on the State level, but at the same time, it simplifies-- You know, we've seen it. All too often, we hear people say, "There should be a law," and, unfortunately, too many bills are put in. But, in this particular circumstance, when you have to go over a river and negotiate with another state, you have to have additional leverage, and that has to come from the Federal level. I realize the rigors of saying, "Let's change a Federal law," but when you look at what we are talking about, when you are bringing it in line with the measure we already have in effect for hazardous waste, when you are given the bipartisan nature of the people behind such a measure -- and DEP, I think you will find, is most supportive of the concept -- when you merge a Tom Kean and a Bill Bradley, I think you take advantage of that joint political leverage in a common cause. We are not talking about an enormous piece of legislation.

SENATOR PALLONE: What I would like to do is have both DEP and the Department of Health comment on my proposal with the manifest system, using the hazardous waste manifest system and the liability for hospital waste now, as well as the incineration and expansion to other health care facilities, and then see what they say, adding this as well. We will ask them when they get up here.

SENATOR GORMLEY: Okay. Thank you very much.

SENATOR PALLONE: Thanks a lot, Bill. We appreciate it. We are going to have two more legislators. We are going to try to make it brief, and then move on to the agencies and other environmental groups. We have here today my colleague from coastal Monmouth, Assemblyman Doc Villane, who will be next.

ASSEMBLYMAN VILLANE: Thank you, Mr. Chairman. I really mean thank you when I say it, because I think that meetings like this really bring to a focus all of the problems that have been generated along the shore. I ought to note that



all of you gentlemen who are here are very close representatives of the Jersey shore area.

Just for information, I have been in the Legislature for 12 years. In 12 years I have represented approximately 25 towns on the Atlantic Ocean, with the Chairman of this Committee.

I have to start off by saying, this is ocean bashing season -- ocean bashing season. It is really, really popular right now to beat up the ocean, to beat up the Jersey shore. Pennsylvania gets a kick out of it. They don't have a beach you can go to. New York gets a kick out of it, and it generates a lot of the toxics and a lot of the septic and a lot of the garbage. But, it is a popular time all over the East Coast to beat up New Jersey. They have a Toilet Bowl Report on New York radio. What it has done to the Jersey shore is reprehensible. Local newspapers and statewide newspapers give the names and addresses of out-of-state tourism councils. "Call the Tourism Division in North Carolina," and they give the number. I think it is reprehensible, what is happening in our State.

Let me say, first of all, you ought to take a look at what's happening, rather than-- And it is an emotional issue, I have to tell you that. We all get angry. I know you do, Frank, and I do. We get disgusted. Dick Van Wagner and I, in 1976, served on a bistate commission to end ocean dumping. But you've got to get scientific about it, and you've got to-- As legislators, we have to get away from the emotions of it. You can write dumb bills, and you can write smart bills.

An irresponsible bill that was written, was written by me in 1976. The bill says: "End sludge dumping immediately in the Atlantic Ocean. It is irresponsible, because unless you promise not to flush your toilet tomorrow or the next day, you better not end sludge dumping until you have another place to put it. There is a lot of responsible legislation, too. You

have to look at ocean pollution this way: You have to look at it qualitatively and quantitatively. Qualitatively, we have to look at the biologic problem -- the effect of sludge dumping, the effect of chemical dumping, and the effect of runoff. Quantitatively, you have to look at the floating debris. Probably the floating debris has more of a negative effect on the people we serve than the qualitative aspect of the water.

Now, how does the biologic effect of the ocean change because of what we do? It changes, number one, because in addition to what we dump at the 12-mile site -- the sewage sludge after treatment, either primary or secondary -- there is a tremendous amount of runoff in storm water drains. Why would storm water affect the quality of the ocean?

I was down in Ocean County last week at a hearing, and Mr. Chairman was there with me, and somebody said in Ocean County, "These beaches are closed because New York dumps primary treatment at the 12-mile site." Do you know why that beach was closed in Ocean County? It was closed because of storm water runoff and all the waste that accumulated probably from a thousand cats and dogs all over that particular municipality, and probably because of the heavy storm water runoff that got into the septic system through old collection systems, both septic and wastewater, and it probably affected the water quality not only on the ocean side, but on the bay side, which is often closed from local runoffs of septic tanks and wastewater.

So, if you look at it scientifically, you have to know where we came from. Twenty-five years ago, in our county -- the county that Senator Gagliano, Senator Pallone, and I represent, and Senator Van Wagner -- we had septic tanks all over the county. We had septic tanks that drained off into the Navesink River and the Shrewsbury River. We had horse farms. During storm runoffs, horse manure from Monmouth Park and from every horse farm in Monmouth County ended up in our rivers.

Now, what have we got? Millions and millions of dollars of septic treatment plants. Millions and millions of dollars to control the casual runoff of wastewater systems.

An editor of a local newspaper said to me, "You know, Doc Villane, I used to swim at Chelsea Beach," and if you don't know where Chelsea Beach is in Long Branch, it has the record for having the beach closed for the longest time of any beach in America. It was closed last year. He said, "When I was a kid, I used to swim at Chelsea Beach, and I never worried about anything." He said, "Now I won't put my kids in the ocean."

Well, do you know that 25 years ago, not only was the septic system rudimentary in Long Branch, but the boardwalk facilities and restaurants flushed their toilets into the ocean. The difference is, today in New Jersey-- I have to tell you, New Jersey is a leader in the environment, because today in New Jersey, we test the waters at least twice a week, and even more often than that. And we tell the public what is wrong with the beaches.

This article that tells you to call up the Department of Travel and Tourism in North Carolina-- I'll guarantee you that they haven't tested the waters in North Carolina ever, but in New Jersey we do. And in New Jersey, we invest millions and millions of dollars. You know, Frank, we put \$30 million into septic treatment this year in one single budget. That is not to say that there aren't a lot of things left to do. There are a tremendous amount of things left to do. But I can tell you, New Jersey is a leader.

Now, what are we doing as far as legislation -- the sludge bill -- to stop it? We all contribute to the pollution. Who never shaved with an aerosol can and dumped it in the garbage today, where it ends up in a landfill? Who didn't use a strofoam cup this morning to drink their coffee, or use a stirrer to stir their coffee? We all did. We are all partners in the problem, and we all ought to be partners in the

solution. We ought to stop bashing the Jersey shore and come up with scientific approaches to relieving this problem.

The MARPOL Agreements-- We noted the MARPOL Agreements. Frank and I both have this bill in. The United States government hasn't signed on to an international treaty that would stop the off-shore dumping of marine waste and garbage. Russia passed an agreement to MARPOL V, but the United States of America has not done that. It merely states that ocean-going shipping cannot, prior to its entrance into territorial waters of the United States, or any other country -- cannot jettison their garbage overboard.

How do you like that? Every cruise ship, every military ship, every international ship that approaches the Port of New York and New Jersey Authority to harbor ships, dump their garbage overboard. That is where you start. What we have seen is a warning. You know, it infuriated-- My wife said she is not taking the kids into the water any more. I live across the street from the ocean. I see it everyday. Every minute of recreation I have, I am in or on the water, but this is a barometer of what we have to do.

The MARPOL Agreements-- Our Federal legislators from New Jersey ought to be banging down the doors of Congress to get this agreement signed. Tampons: This bill is in your house; it is in my house. Banning nonbiodegradable plastic tampons is a message to the plastics industry. They came up to Monmouth County. Frank was there. They said, "Why are you worrying about a little tiny plastic thing that floats up on the beach at Sandy Hook?" I'll tell you why we are worried about it. The reason why we are worried about it is because it never goes away. It's there in 1987, 1997, and probably 2007. The fact remains that the principle we are talking about is not that single product. The fact remains that the principle involved-- There are substitutes. There are biodegradable plastics. We have seen it in plastic bags and in all of the

trade journals. They know it is there. Plastic biodegradables are available.

Dredge spoils: We allow for contaminated dredge spoils to be dumped six miles off the biggest recreational area in America. We dredge New York Harbor, New Jersey harbors and rivers, and we dump known contaminated dredge spoils off recreational beaches. Red tide, green tide. Is that scientifically an uncontrollable algae bloom? Well, then, investigate it. We ought to get scientific knowledge about that, not throw your arms up, and say, "That is floating poop." Brown tide is brown tide. It is an algae bloom.

Storm drain monitoring: We ought to put money into the old cities, to make sure their storm waters don't intercept with their septic waters, overloading their septic systems.

SENATOR GAGLIANO: Doc, excuse me, aren't they designed that way in most of the cities in northern New Jersey? It is my understanding that these systems were designed so that in times of flood, that is, heavy rains, they could carry off the water, which would include a certain amount of sewage.

ASSEMBLYMAN VILLANE: New York City, primarily, and some of the older cities in New Jersey have a common system -- a common system that takes wastewater runoff in the streets, with all the dog-doo and the cat-doo, and runs it into the septic system to be treated at the septic plant. The septic plant has a certain capacity. When it isn't raining and there are no big storms, it treats that capacity in whatever primary or secondary fashion. In a heavy rainstorm in New York City, it overwhelms the system, and it by-passes the treatment facility, and you get all that storm water and some septic systems into it.

The ocean litter survey, Senator, December 11, 1986, required DEP to track ocean litter. We have the legislation.

SENATOR PALLONE: Doc, if you could summarize-- I don't want you to go through all of those bills.

ASSEMBLYMAN VILLANE: I know you don't, Frank. They're now your bills, too. (laughter) Thank you, Frank, I appreciate it.

SENATOR PALLONE: I saw the pile. It was so big.

ASSEMBLYMAN VILLANE: I have only written 26 bills about the ocean environment. Health study: I saw the SOS people here. We put one million -- one million dollars -- into a program to provide a health study to ascertain whether or not it is dangerous to swim in the ocean. But, consider this: Is it unusual for a kid that dives in the ocean and spends two or three hours underwater to get an earache? You know, the Atlantic Ocean is not a chlorinated swimming pool. Is it unusual to get iritis, an irritation to the eye, if you swim in salt water for two or three or four hours? You know, there is talk about getting AIDS if you swim in the Atlantic Ocean. It is irresponsible. I think we ought to separate the fact from the fiction.

But, really, Frank, I appreciate your giving me the opportunity to speak today. I think what we can do -- in your house and in my house -- is look at the thing more factually, to get out of the ocean bashing season, to put some good legislation together, and to work with DEP and the Interstate Sanitation Commission -- which is here today -- to do those things.

I talked to Senator Van Wagner, and I would like to talk to the whole Committee about one particular focus bill we are talking about now, and that is the manifesting system for hospital waste. I think we will put the bill in both houses identically. If the young man who drafted it, probably for me and for you, will make those bills identical, we will get into that manifesting system.

I was in touch with the National Council of State Legislators -- the NCSL -- which represents all legislators in the State of New Jersey. I spoke with him yesterday in Denver,



and also to their office in Washington. They are going to take that piece of legislation that we will craft and they are going to put it into their Legislative Manual. They are going to send that legislation to every coastal state in the Union, and we are going to request the chairs of the environmental committees for each coastal state to draft and implement that same manifesting system for hospital waste.

SENATOR VAN WAGNER: Mr. Hinchey is doing that in New York already.

ASSEMBLYMAN VILLANE: Good. He will be the sponsor there. I would like to--

SENATOR VAN WAGNER: He is the Chair of the Assembly Environment Committee.

ASSEMBLYMAN VILLANE: I think we really ought to do it in Connecticut, Delaware, and all the way down the coast. It would be a good idea.

SENATOR VAN WAGNER: They are.

ASSEMBLYMAN VILLANE: With that, Mr. Chairman, I want to tell you that I really appreciate your changing your schedule from pre-treatment, which is an important factor in this, into this area, because of the popularity of it. But I caution the Committee -- and I really caution the media -- to be factual, to be scientific, and not just to sell air time and newspapers. Let's improve the water quality.

Thank you.

SENATOR PALLONE: Thank you. I think what we are going to do is ask DEP and the Department of Health to comment on our manifest proposal, to see what they think about it, as soon as we get to them.

We have one more legislator -- or I guess I should say former Assemblywoman -- Marlene Lynch Ford. After Marlene's presentation, we are going to get to the agencies for their comments.

MARLENE LYNCH FORD, ESQ.: Thank you, Mr. Chairman. I am very pleased to have the prerogative of my former position.

Good morning, members of the Committee. I think I have had the pleasure of working with most of you, or all of you, on issues of environmental protection when I served in the New Jersey Legislature from 1984 to 1986. At that time, as many of you know, I represented the Tenth District of Ocean County, which has really been the center of many of the most recent events of environmental defilement.

Let me tell you, that as a 31-year resident of the Jersey shore, I want to thank you all for convening this most important Committee. We need to emphasize, along with recent events, the need for vigilant protection of our coast and shoreline, and the enforcement of our environmental protection laws and regulations.

We in Ocean County feel that ocean pollution has been an ever-present crisis, and we are pleased about the attention this Committee has focused on the most recent events, which were really a tragedy along the Jersey shore.

As a State Assemblywoman, I also had the opportunity to Chair a similar type of Committee, investigating, at that time, ocean sludge disposal problems coming from New York City. We were then objecting to these practices by our neighbor to the north. Now we have experienced some unspeakably disgusting debris, the closing of our beaches, the threatening of the health of our residents and visitors, and damaging the tourism economy of our area.

I don't think you need me today to add to your lengthy agenda in terms of expressing my personal outrage. Everyone is outraged, and should be. Let me just tell you something, paraphrasing perhaps a movie line from several years ago. On behalf of the people of Ocean County, I can tell you that they are as mad as hell, and we don't want to take New York City's garbage any more down along our shores.

There were some old ideas expressed at my Committee hearings three years ago. Some of them are still being knocked around today, with little, if any, action being taken on them. There are some new ideas that are being articulated today. Let me just tell you, as a citizen, and as someone who was involved in the issues for many years, what my feelings are on this.

I have to differ, I guess, with my colleague, Assemblyman Villane, a little bit. My two other colleagues, Senator Russo and Assemblyman Doyle, are proposing legislation that would end ocean disposal practices by 1991. I think enough is enough, and that this legislation should be endorsed by this Committee. It should be promoted speedily through the Legislature, and we should send a message that all ocean disposal practices should end by a set deadline.

Let me talk a little bit more about another old idea. In 1984, Senator Russo called for the enactment of a Federal surcharge on all ocean dumpers, not only to discourage the practice, but also to finance a fund similar to the Spill Fund in terms of providing money for shore protection and for cleanup projects. I am asking this Committee today to endorse a proposal -- enactment of such a proposal by our Federal legislators, to impose a surcharge on all ocean dumpers, so as to finance these important projects.

Now, New Jersey really has to clean up its own act before we start casting aspersions on our neighbors, no doubt about it. I would urge this Committee to investigate immediately our own hospital disposal practices, what is being done within the State, how it is being disposed of, and whether that is being done in a manner that is responsible and does not threaten the integrity of our shores.

Assemblyman Villane spoke earlier about the MARPOL treaties. I also would encourage this Committee to support efforts on the Federal level to revise that international treaty, so as to prohibit the dumping of plastics at sea, and that the United States become a party to that treaty.

As far as our interstate relations are concerned, three years ago I asked that the Legislature look at all interstate commissions in terms of our cooperation, and to make the protection of our coastline a priority in terms of our dealings with other states through these interstate agencies. For a start, I am asking this body to demand an accounting from the Interstate Sanitation Commission regarding the actions they have taken, if any, to monitor ocean disposal practices. I am pleased to see that there is a representative from that Commission here today, and I am looking forward to his comments.

Finally, I think our Attorney General should make it clear that all illegal ocean dumpers will be declared Public Enemy #1 in New Jersey. When the company or persons are found who are responsible for this latest defilement of our coastline, just steps from my own home, and in the area where I work and where my family lives, and where my nieces and nephews are being raised and swim in the ocean, I think they should be prosecuted to the fullest extent of the law. Monetary penalties are not enough. I am asking that our Attorney General incarcerate the perpetrators and impose the full weight of the law against them.

Again, Mr. Chairman and members of the Committee, it is a pleasure to be able to be back here with you today. I want to again thank you for directing the attention of our State Legislature to this problem. We know, I think, the course of action we must take. I am encouraged that this Committee has taken the initiative to light the way.

Thank you.

SENATOR PALLONE: Thank you, Marlene. I appreciate your coming down here today.

Because Dr. Mytelka has to leave, and because Assemblywoman Ford mentioned the Interstate Sanitation Commission, I am going to ask him to come up next, and then we will move to the Department of Environmental Protection.

Before you speak, Doctor-- Well, first of all, let me thank you for coming, because you, unlike EPA, come to every one of the hearings we hold where there are any issues discussed pertaining to the ISC, and I appreciate that. Assemblywoman Ford mentioned the possibility -- you know, the role that the ISC plays in terms of enforcement and monitoring. I would like to know what role you have played, particularly with regard to the garbage barges that we feel are now plying our shores. Also, I would like to know what is happening with regard to the Fresh Kills suit.

You know, we brought this up last year. We are concerned about containment at Fresh Kills and, to my knowledge--

SENATOR VAN WAGNER: They found a solution.

SENATOR PALLONE: What's that?

SENATOR VAN WAGNER: We sent the plume over yesterday, and I think we might have gotten about four or five workers on the Fresh Kills Landfill. (laughter) We have this war. I vote we declare war on New York.

SENATOR PALLONE: Okay; all right. The reason I mention this, Doctor, is because when I spoke to EPA, they said, "Yes, we do have garbage barges going to Fresh Kills, and we still have the problem at Fresh Kills. But we don't have garbage barges other than those going to Fresh Kills." That distinction I think is important for the Committee. What types of enforcement actions are being taken with regard to those two possible sources?

D R. A L A N I. M Y T E L K A: Thank you, Mr. Chairman and members of the Committee. I have a short statement which I would like to read, and then, of course, as always, go at it.

I am Dr. Alan I. Mytelka, Director and Chief Engineer of the Interstate Sanitation Commission. We are a tristate environmental agency -- that is, a joint agency of the States of New York, New Jersey, and Connecticut -- established under a compact.

Although our responsibilities within our district include the fields of toxics, air pollution, resource recovery, and combined sewers, our continuing emphasis -- and responsibility -- is on water quality. Therefore, many of our activities -- in addition to studies on toxics and air pollution -- are directly related to water quality control.

Although our official name is "Interstate Sanitation Commission" -- hopefully it will be changed shortly -- the moniker "sanitation" is somewhat misleading. We are not a garbage disposal agency. We have no jurisdiction in that field. But in the sensitive area of hospital and garbage waste, we, most assuredly, are vitally concerned. When such wastes enter our waters, water quality is an issue. In the vital area dealing with water quality and pollution abatement, the Commission is an enforcement agency. We have both monitoring and regulatory powers.

As you can imagine, that 30-mile garbage slick that appeared off the shores of New Jersey beaches the week before last, has turned a worst-case scenario into a reality. That this should happen is an outrage. Let's hope this is a last-time occurrence, but let's also consider it a warning.

At the ISC, we also consider it a call to action. Although the incident occurred beyond our district, clearly pollution knows no boundaries.

We are in touch with other concerned organizations, such as the New Jersey DEP and the New York State DEC. From past observations, we find that City marine transfer stations loading garbage onto barges are operated in a reasonably clean manner. We are aware, however, that there is a potential for spill when barges are piled higher than their sides. Although this is to be deplored, we are not sure that this is the case in the present incident.

Components of the medical waste have been traced to sources in Middletown and Farmingdale, New York, and New York

City. The question remains: How did it reach the New Jersey shores? Was it mixed in with municipal garbage?

The ISC contacted municipalities along the South Shore of Long Island in Nassau and Suffolk Counties about the transport and disposal of their garbage. We found that in all cases it was transferred by truck to local landfills or, in one case, shipped by truck to Ohio, so it is not a situation where barges and water are involved -- or at least they are not supposed to be involved.

We also checked transfer stations and dumps. We found none located adjacent to water -- referring now out to the South Shore of Long Island. So, with the elimination of barge carting as a factor, we can rule out normal operations by landfills as a contributor to the problem -- and I use the words "normal operations."

Should we be able to crystallize any further reports into solid data, we will, of course, pass the information along to the Attorney General's office and the New Jersey DEP.

SENATOR VAN WAGNER: May I make a suggestion? (no response) I suggest that you find out what purchases were made of containers. You've heard of SeaLand, right? You know what containers are?

DR. MYTELKA: Yes.

SENATOR VAN WAGNER: I would suggest to you that if you are really interested -- and I know you are -- you will find most likely that the hospital waste in question was probably waste that was illegally disposed of, in a container that was purchased at a very low price, and then illegally dumped into the ocean. I have a sneaking suspicion that you will find that out.

DR. MYTELKA: Thank you very much. I will look into it.

SENATOR VAN WAGNER: Just a suggestion.

DR. MYTELKA: I make note of it, Senator.



SENATOR GAGLIANO: Got any leads on that, Senator, because there are thousands and thousands of containers all over the--

SENATOR VAN WAGNER: He will know where to look, believe me. The garbage industry is a very interesting community. It is relatively simple to find out that information. I can tell you right now that there have been, in New Jersey, grand jury hearings conducted relative to the disposal of garbage waste in landfills in New Jersey illegally. Okay? Oftentimes, disposal operators -- or operators of disposal facilities -- have, in fact, contacted Department of Health and Department of Environmental Protection officials, who, I am sure, will tell you that, from as far south as Ocean County, to disclose to them that so-called "red-bag type" waste has appeared in haulers' trucks, coming into landfills.

I just have this feeling, you know, call it an eerie feeling, that you are going to find that this particular waste popped up as a result of someone buying himself a container and making a nice deal, and then taking that container somewhere.

DR. MYTELKA: I will have my staff look into this through various channels.

SENATOR VAN WAGNER: It is just a feeling I have. I don't have any substantive proof.

SENATOR GAGLIANO: The reason I asked that is, if there is anything that should be followed up from a law enforcement standpoint, it would seem to me that the Attorney General ought to be requested to do the same thing. The Attorney General and the U.S. Attorney would have much more access to enforcement than, for example, the Interstate Sanitation Commission, I think. I am not trying to excuse you, Doctor.

SENATOR VAN WAGNER: He has his methods, Senator.

SENATOR GAGLIANO: I understand, but it would seem to me that there ought to be a direct referral -- if it has not been done already as we are speaking--

SENATOR VAN WAGNER: Well, I am sure he will.

SENATOR GAGLIANO: --to the Attorney General and to the U.S. Attorney for New Jersey.

SENATOR PALLONE: I thought when Richie mentioned it that maybe you could give it to me, and I could try to get the \$5000 reward. (laughter) Go ahead.

SENATOR GAGLIANO: It might not be worth it.

DR. MYTELKA: As part of our follow-up, we will be in touch with the appropriate law enforcement agencies, for their expertise.

SENATOR VAN WAGNER: I think, Doctor, you know what I am talking about.

DR. MYTELKA: I certainly do.

As we are an environmental agency, and not primarily a detective agency, our responsibilities in helping prevent environmental disasters lie in continual monitoring, studies to determine future trouble aspects before they explode, and long-range planning.

In this connection, the ISC proposes that a manifest system -- I think you have heard that before -- similar to the one for hazardous waste, be introduced for hospital waste. Infectious wastes are no less hazardous. Very simply, the hospital has the carter sign for the numbered plastic bags, and the carter, in turn, has the receiver at the dump site or incinerator also sign. Thus, a record is established from start to finish. It's as simple as a parcel post delivery, and as important as the environment itself.

Jurisdiction should be no problem. Each state can authorize the agency of its choice to handle the manifest. The manifest system can only serve to protect legitimate operators and pinpoint those who would turn our waters into cesspools.

Just think: Under our present system, New York-licensed haulers do not have to show proof that materials are actually shipped to incineration sites. And haulers do not have to report the names of the hospitals that hire them until the end of the year. So, it's a good bet that as things now stand, we may never be able to fix responsibility for the Ocean County shore slick. That is unfortunate. Hopefully, I will be proved wrong in the next day or so, but that is our feeling.

As the ISC has learned over the years, outrage and finger pointing are not enough. If we can uncover any significant information, we will, of course, be turning over our findings to the appropriate agencies. In addition, in our role as an interstate agency, if we can be of further assistance in the legal aspects of the case, we stand ready.

In current action regarding our district's waters and the beaches of Woodbridge, our joint suit, unfortunately, is still not settled. This is the litigation the ISC, the municipality of Woodbridge, and the New Jersey Attorney General's office is conducting against the City of New York.

We have just received a petition from New York City requesting relief from the responsibility of building an enclosure for their off-loading of garbage at Fresh Kills. They offer a laundry list of reasons for noncompliance. We don't accept it. We won't buy it. Our reply is due in court by September 15, and we will forcefully reassert our position at that time. Actually, the hearing on it will be September 28.

The point is, despite New York City's assertions that they have introduced new practices to avoid polluting the beaches, debris from the operations at the landfill is still polluting the waters and beaches of Woodbridge and other areas. Our people have been out in the recent past and confirmed it, and we are still sending people out there so that our data before the court will be current.

At the Brooklyn Navy Yard resource recovery hearing, to which we were a party, the City of New York proposed to use a covered facility for unloading barges. We expect the City of New York to do the same, and no less, for the citizens of New Jersey and Staten Island. The point here is, the covered unloading facilities that the City of New York proposed in Staten Island -- it was their idea at that time a few years ago -- was a good idea. It just cost money. In fact, it was such a good idea, that they are proposing to use it in other parts of the City where they are going to be hauling barges for off-loading garbage and on-loading ash out to the Fresh Kills Landfill. We see no reason why that same system which is good enough in Brooklyn, and which is going to be good enough in other parts of the City, isn't also good enough for Staten Island and, therefore, affects the citizens of New Jersey -- protecting them. We are going to see to it that that happens.

As Director of a tristate environmental agency, I promise that the ISC will do everything in its power to see that the court understands the Woodbridge situation and renders the right decision.

We will do all we can to assist other agencies, not only in the Ocean County beach matter, but in preventing future disasters.

If any good can come out of this incident, it might be the sounding of an alarm. That sudden weekend appearance of a 30-mile garbage slick is a warning, a reminder of how vulnerable the environment is, and a plea for eternal vigilance, through continual monitoring, adopting that manifest system we recommend, long-range planning, and strict enforcement.

Thank you. I have one other item I would like to say before any questions you might have. The Commission has recently purchased a work boat. I stress the words "work boat." It is roughly 25 feet long, nine foot in the beam, with

a diesel engine. One of the primary purposes of it is that we need to do more monitoring of the water quality in our region, here off the Jersey coast, off the New York City waters, and out on Long Island Sound. Nonetheless, one of the things I have been frustrated about is, when looking at barges and transfer operations, we don't have a helicopter available. That is beyond our means, and I wouldn't ask our legislators for helicopters, or anything like that. But, we do not have, at the moment, the means of finding out on the water what is going on. With the acquisition of this boat, which is due to be delivered on time, I hope, on October 1, we will have our own means of independently verifying what is going on, what, if anything, is falling off the barges as they are going across the waters, what barges there are, and where they are going. I think this will be an important addition. It is something you alluded to, Senator, in your original remarks to me, so I thought I would bring that up.

If you have any questions, I would be glad to answer them.

SENATOR GAGLIANO: You don't have the wherewithal for a helicopter, is that it?

SENATOR PALLONE: Another helicopter, huh?

DR. MYTELKA: There are advantages to actually having a boat on the water. In years past, the USEPA, at times, made a helicopter available to us, but it wasn't reliable. When we needed it, it was always off someplace else. We will now have our independent availability of transportation on the water, to see what is going on.

SENATOR PALLONE: Before we ask questions, I just want to get an indication-- Is Barbara Britton, who is representing, I guess, Mercer Medical Center, here? (affirmative response from audience) You're here, okay. We are going to put you on next, because we know you have to leave, and then we are going to have DEP after that.

Dr. Mytelka, I have a lot of questions, but I don't know if I can ask them all, because I know we have to move on. What I want to understand, first of all, is-- EPA is saying to me that it is very unlikely that the garbage barges that are transferring garbage from the boroughs of New York -- the five boroughs of New York, or whatever -- to Fresh Kills, are the source of this dumping and the closing of the beaches in New Jersey, because, I guess, they travel in the intercoastal waterways, and it is more likely that this is a barge that was loaded -- you know, a rogue barge loaded illegally from Long Island or New York or someplace, which just went out to sea and dumped, kind of along the lines of what Senator Van Wagner said.

I would just like your comment on that, because if the problem continues-- I mean, I know there is a continual problem with Fresh Kills, and I want to discuss that, but are we now into a different phenomenon, which is the phenomenon of it being very cheap now, and some way, you know -- a way of getting around existing regulations, by simply putting garbage on a barge and dumping it out at sea?

DR. MYTELKA: Let me answer you in this way: God knows that I am not a defender of the City of New York, but in this particular instance -- I'm talking about the Ocean County disaster that took place two weeks ago -- I don't feel, as I said in my testimony, that in this case the City of New York is at fault in terms of the regular operations of the Department of Sanitation.

Regarding other possible causes, I read in a newspaper somewhere that it cost roughly \$1500-plus a ton to legally dispose of hospital waste by incineration in New York State. If you get rid of it on a barge for something much less than that, there is a potential for enormous profits to be made. Human nature being what it is, people will take those shortcuts when they can, even if it is at the expense of the environment.

So, I would probably agree with EPA this time, that most likely it will be found -- whether it came from Long Island or by some other means -- that it was not the regular operation of the City barges, but that there was some kind of water-borne transportation going on either out in the harbor, or out into the bight, that was the cause of the incident -- if we ever find out what the cause was, and I am not so sure we will.

SENATOR PALLONE: What kind of controls exist right now? Other than the Fresh Kills situation, what kind of controls? If I am in Islip, for example -- I don't even know if I am pronouncing that properly --

DR. MYTELKA: Islip, they pronounce it (correcting Senator Pallone's pronunciation).

SENATOR PALLONE: --and I am a hauler, and I decide that I want to put all of the material that I have taken in at my transfer station, or whatever, on a barge and transport it at sea out into the ocean, pretending I am going to Maryland, or just doing it illegally, what controls-- Is anybody watching that barge at this point?

DR. MYTELKA: To the best of my knowledge, there are probably little, if any, controls on that. That is why, at least in terms-- Well, in terms of the garbage, there isn't that much of an incentive, maybe, for getting out into the ocean -- there is some, obviously -- because there are legal places to dispose of it, both on Long Island, and a few communities truck it to Ohio, which, of course, raises the price.

But, in terms of hospital waste, there is really no control. That is why, other than-- At the end of the year, they are going to say who the hospitals were, but in the meantime, you don't even know who the customers are.

SENATOR PALLONE: I understand what the manifest-- We are going to get into that, too, and I appreciate your saying



that you support that measure. But, is it correct to say that right now, unlike the situation with the sewage sludge or the dredge materials, where there is a permitting process with EPA -- and they do have a certain amount of control -- or unlike the situation with Fresh Kills, where the New York Sanitation is at least supposedly supervising this, that there really is no permitting, no enforcement, no monitoring whatsoever of the loading of garbage debris or hospital waste? For example, in a port, taking it out to sea or taking it to some other state, nobody watches that being loaded, nobody watches where it goes? That's it?

DR. MYTELKA: To the best of my knowledge, what you're saying is probably true.

SENATOR PALLONE: Isn't that probably the crux of the problem then?

DR. MYTELKA: It certainly is, that there is no system for keeping track. There is not enough of a system intrastate, and certainly very little of a system interstate for doing it.

SENATOR PALLONE: Well, what can be done? What can we do?

SENATOR GAGLIANO: Isn't that a situation such as Bill Gormley was talking about, that we would create a Federal manifest system. I mean, basically, isn't that what we're talking about?

SENATOR PALLONE: Well, either that, or, you know, I guess what you and Richie were talking about, having some interstate unit that would watch over this, or perhaps with the Coast Guard having increased responsibilities. Is there anything the ISC can do with regard to those types of barges?

DR. MYTELKA: Well, at the present time -- and I don't want to be accused of enlarging our empire -- it's not an empire, but, you know, the business of bureaucratic empire building-- If the legislatures of two or three of our states thought it would be useful to create some kind of an interstate

watchdog over this, then I would say that our Commission could probably be useful there. But that is something I think the legislatures have to decide as to whether they want to handle it entirely intrastate, through their own departments -- which a manifest system certainly could do -- or they want to expand it to an interstate basis. If it goes much beyond our three states-- Quite frankly, I think there is a need for it -- I am not one always for Federal intervention or anything -- but I think there is a need because of the nature of the problem. It involves more than just New York, New Jersey, and Connecticut. It involves Massachusetts, and maybe further north, down to the Carolinas. There may very well be an need for a Federal system of tracking of these things, because, for instance, some of the waste from New York winds up in Ohio, in terms of garbage, plus whatever else may or may not be put into those trucks. So, there certainly is a need for a larger -- or large-scale watching.

SENATOR GAGLIANO: Doctor, excuse me. Are there any contracts that you know of -- that you are aware of -- where New York or New Jersey hospitals dispose of waste in other states, other than it being motor driven to Ohio? Are there any places in the Carolinas, or anyplace else, where barges could go, or are under contract to go to dispose of hospital waste?

DR. MYTELKA: I am not aware of any, but that certainly doesn't mean that they do not take place. This is an area where this crisis came about. We used our few people where we thought it would do the most good, checking out on Long Island. We have really not investigated the whole picture, and that may be what is necessary -- to have some kind of a study of the whole situation, to get the whole picture of what is going on.

SENATOR GAGLIANO: Following up on what Senator Pallone said about nobody knowing when it goes on a barge and

when it goes off the barge-- We don't even know the number of the barge, for example. I just wonder if we could check further to see if there are out-of-state facilities that are only arrived at by water. And, if there are contracts with hospitals to provide that, who has those contracts, and where are they going with the material? It seems to me that that would be the type of thing that would create this kind of a dump.

The second part of the question is, with respect to the Ocean County situation, which happened just a couple of weeks ago, was there any estimate of the number of tons or cubic yards, or whatever, that made up that slick?

DR. MYTELKA: I don't know. I think, though -- and I am not passing the buck to someone else -- that DEP might have an idea of how much. They know that certainly better than we do.

SENATOR GAGLIANO: They might have an idea of how much was involved.

SENATOR PALLONE: What about now-- I know we don't have a lot of time, but I want to ask some questions on Fresh Kills, and then I want to ask some questions on the manifest system.

Going back to Fresh Kills again, we have an outstanding court order that says that New York has to build a containment facility -- if that is the proper term. We know that materials falling off the barges are still washing up on the shores, and that materials are falling off the landfill during unloading and falling off the landfill just from the landfill, and washing up on the Jersey shores. This is documented. Why is it, with this outstanding court order, that New York doesn't have to do anything? I don't understand. I mean, we're going on how many, five years now?

DR. MYTELKA: Going on probably seven or eight or nine.

SENATOR PALLONE: What is the reason why they are not required to comply with the order?

DR. MYTELKA: So far, the City of New York has been successful in delaying the day of judgment, quite frankly.

SENATOR PALLONE: I mean, you know--

DR. MYTELKA: We have been involved in this suit now -- at least the latest aspect -- for roughly a year. I keep asking attorneys, "Why is it taking so long?" To me, as a Director, it is a simple matter. They're guilty; get them to do it.

SENATOR PALLONE: It's that simple.

DR. MYTELKA: The system of law in this country, evidently, is not quite so simple. I am not a lawyer, so maybe I will take some pot shots at it.

SENATOR PALLONE: Well, I know that we've--

DR. MYTELKA: They have a right, and the City of New York has utilized its right, to appeal the order of the judge. Now they have finally -- and they are late on it, but the court allowed them to be late on it -- sent in their petition as to why they should be relieved of this order, which we think will go a long way toward solving the problem -- well, maybe not a long way. Under the court procedures, we now have to respond to them. Since it is ongoing litigation, I can't tell you the exact words we are using. We are opposing them on it. As far as we are concerned at the Commission, that covered unloading facility is not only necessary-- It is not impractical. The City of New York is proposing the same thing in other areas of the City.

SENATOR PALLONE: Doctor, it's a year now since the AG and the ISC decided to join the suit. We were very happy and there was great fanfare that they did it. There hasn't really been any progress since then, has there? I mean, what has changed?

DR. MYTELKA: I don't see much. The only thing that changed was, we are closer to a legal solution. Unfortunately -- and I say this now not as a lawyer, but as a Director -- the

legal procedures of getting things done are very cumbersome and very time-consuming.

SENATOR PALLONE: Is there anything being done outside of the suit with regard to controls on the garbage going to the landfill, or controls at the landfill itself, other than this enclosed barge loading system? I get evidence everyday from different individuals that this material is still washing up on our shores.

DR. MYTELKA: Well, when these clamshells take it out of the barge and put it onto the (indiscernible), which is a very primitive system, it still sprinkles into the water. Our people have observed that as poor as the boom they use now is -- it is still a boom -- it is left open for long periods of time because it is done manually. So, when the tides go out, the material still washes out. It is not just kept closed all the time, except when the barges enter and leave.

SENATOR PALLONE: To me, this is one of the most important things that need to be done.

SENATOR HURLEY: You have enforcement powers there. If your people observe this, what do you do?

DR. MYTELKA: We are utilizing our enforcement powers. We utilized them by joining the present lawsuit, because we felt that was the quickest way. I would point out that at the last meeting of the Commission, we did adopt -- and this was supported by New Jersey DEP, as well as the Health Department -- administrative procedures for holding administrative hearings, which could be applied to situations such as the New York City one. Hopefully, this will speed things up.

Nonetheless, one has to realize that even if we held administrative hearings, when that is all done, a defendant always has the right to go into court to challenge it. All I can say is, I am as frustrated as you are. I am as frustrated, I'm sure, as the Attorney General's office and DEP are. We are

going as fast as we can in the court system we have in the United States in pursuing this. We are not backing down an inch in what we want. Our position is still that we want the thing built. If the City of New York won't build it, we want the court to appoint a receiver, and the Commission is willing to be the receiver to see that the thing gets built. Our position has not changed on that.

But, I don't know of any way-- I have asked our counsel, "Is there any way we can short-circuit this thing and get it done faster?" The answer I have received to date is, "No. This is the system we have in this country, and we have to follow it through." The only thing we can do is to be tenacious about it, and not back down, which we haven't. We are working closely with the Attorney General's office and, through them, DEP in this issue, to make sure that we are all on the right wavelength. Quite frankly, one of the things we want to do is hold the City of New York in contempt on this issue.

SENATOR PALLONE: I think they should be held in contempt.

DR. MYTELKA: Well, we are looking into this. As far as I am concerned, if it has to go as high as the Mayor himself in order to get the issue resolved, I have no hesitancy in naming the Mayor. Our legal staff, right now, is looking into what is involved in contempt citations. This is where we intend to go.

SENATOR GAGLIANO: The problem, as I see it, and I have been there-- The problem is one of magnitude. Whoever was the genius who said that all of New York City could dump in one place, whether it gets there by truck or by barge, or both, and that is what happens-- The stupidity of putting it all in one place, is now what we are seeing. It is my understanding, Frank, that it is 2300 acres, and that they dump 22,000 to 25,000 tons a day in one place, and that when it is finished in

the 1990s, it will be 550 feet high. Now, am I misquoting anywhere, because that was the testimony in Woodbridge?

SENATOR PALLONE: No, that's true. Everything you said is true.

DR. MYTELKA: Essentially, the numbers you have are correct. Ten feet plus or minus is not an issue. As I stated the last time I testified--

SENATOR GAGLIANO: Excuse me. With that much dumping taking place everyday at those heights, it is virtually impossible for us to do anything about it. The only thing we can do is close that thing, and find other ways. I was there. I was there with an Asbury Park Press reporter and a photographer. We watched the stuff blow. As they were dumping it, the papers were blowing. I have photographs that were given to me by employees of Public Service Gas & Electric, where they were pulling their screens out of the water -- where they got fresh water into their system for cooling purposes. They would lift these screens out of the water, and they were just covered with plastics and paper and garbage, coming directly across the Kill. They are not using that particular system now, so they don't have to worry about it. But they had to clean it almost every day or it wouldn't work.

SENATOR PALLONE: See, the problem is, right now the focus, of course, is on the rogue barge, or whatever, that maybe went out to sea from some Long Island or other New York source. But this problem with Fresh Kills is a daily thing. I mean, the needles, the medical waste, the garbage, the plastics that were shown on that video machine-- They are in Raritan Bay, Sandy Hook, and the beaches of Monmouth County everyday. They may not be of that magnitude, but they're there. I suspect those are all -- or a lot of them are coming from Fresh Kills.

DR. MYTELKA: I good portion of it may very -- I will word it this way -- well be coming from the landfill. The last



time I testified -- I know you don't like to hear it, and I don't like to say it, but I think it is true nonetheless-- The question is not whether that landfill is going to be 500-and-some-odd feet high. The question is, is it going to be 500-and-some-odd feet high of garbage, which will then end around the year 2000, plus or minus a few years -- supposedly end then -- or will it be ash? I have concerns that when the ash is unloaded, it may be more friable and lighter than garbage, and may blow even easier than the garbage does. I have some real concerns about that.

That is one of the reasons why we are pushing for this covered garbage unloading facility, because over a period of time it will at least partially turn into an ash unloading facility. I sure want to see that that stuff is covered up and not going out into the open to blow all over the place.

SENATOR PALLONE: I don't want to interrupt you--

DR. MYTELKA: When I testified before the New York City Council, I suggested to them that they start looking at what they are going to do after the year 2000, or 2010, whatever that magic year is. And, of course, being in the political arena, they have problems, like, immediately, and 2010 is three generations ahead in political life. That doesn't get much response.

SENATOR PALLONE: We are going to move on, Doctor. I appreciate it. I would like to ask you questions all day, but we have to move on. Thank you for coming again. I appreciate your support of the manifest system. We are going to get into that with the Department of Health. Thanks again.

DR. MYTELKA: Thank you, Senator.

SENATOR PALLONE: We are going to move on to DEP now, and then we will have Ms. Britton after that. Mr. Don Deieso, Assistant Commissioner, New Jersey Department of Environmental Protection, and Mr. George McCann, Director, Division of Water Resources. We will let you make some statements, and then we will ask some questions. You know the focus of our activities.

A S S T. C O M M. D O N A L D A. D E I E S O: Good afternoon, Senators. It is good to be with you today. We are prepared to comment on several issues that we know are of concern to your Committee: The first is hospital waste; second is the burn barges; third is the floatables and the Fresh Kills issue; the fourth, sewage sludge; and this is also an appropriate opportunity to offer you some facts on the regrettable dolphin situation we have on the East Coast.

First, on hospital waste, the major event of the past several weeks, we have several pieces of information we would like to share with you. First, we are very certain that that waste was not New Jersey born. It did not originate in New Jersey. We say this for a couple of reasons: One, New Jersey does not have any marine transfer stations. The proposition of moving that much solid waste into the ocean can be accomplished only with a marine transfer facility, one equipped to handle garbage, to move it in that volume, and to move it out to sea.

Secondly, we have no identification on any material we have recovered which indicates New Jersey waste. With those points in mind then, everything points to New York waste and to New York waste disposal. We also estimate rather large quantities. Our review at this point is that 200 to 300 tons of material was collected on the beaches, leading us to believe that even more was either sunk or washed further out to sea. I might add, parenthetically, a garbage barge holds about 600 tons of solid waste.

So, what we are left with is a proposition then that it is very likely that this material came from ocean dumping, not by accident -- the quantities are too large, and there have been no reports of accidents or any barge mishaps -- but instead by a deliberate illegal act. Those investigations are continuing. We are hopeful that a quick resolution will result. The Governor, as you know, has announced a \$5000 reward to anyone offering information leading to a firm

conviction. I might add parenthetically at this point that while it certainly is interesting to conjecture and it certainly lends a lot of curiosity to different methods by which this could happen, the investigation is a legal one. It is one that is being conducted through our Attorney General's office, in concert with DEP, and it has criminal overtones. For that reason, you will find us saying that certain information is not available, and that it is inappropriate for us to comment at this time.

Let me describe, in just a minute or two, what New Jersey does with its hospital waste, because I think it is important to put the overall issue in perspective. First, let me distinguish what comes out of a hospital in two major categories. The first material is that which comes from the patient floors, and the second category is all of the other, like cafeteria waste, the paper waste from the offices, and any other support services in that hospital. So our first big categorization then -- patient floor, and other.

If we look at the patient floor waste -- and our Health Department is here today to answer any questions you might have in detail; it is actually their regulations that regulate hospital behavior in this course-- The materials that leave patient floors then are categorized once more into two categories, the first being pathological waste. Let me paraphrase, and say that is tissue samples; it is organs removed; and any blood and serum materials. The second category is things like syringes, intravenous tubing, bandages, towels, tissues, etc. That first category -- the tissue wastes -- is incinerated. The regulations require incineration. So, one misconception that I am afraid has abounded is that body parts and body limbs and tissue are what is being found, and that simply isn't so.

SENATOR GAGLIANO: In New Jersey?

ASSISTANT COMMISSIONER DEIESO: In New Jersey.

SENATOR GAGLIANO: But this wasn't New Jersey originated.

ASSISTANT COMMISSIONER DEIESO: Well, it wasn't found in the recent event of a few weeks ago.

SENATOR PALLONE: But we have had incidents, though.

ASSISTANT COMMISSIONER DEIESO: We have had very isolated cases, one, most regrettable, last year, boxes of fetuses found in a Jersey town. The enforcement action was quick and swift. We found the New York source, and action was taken. So, there are instances. They are regrettable; they are macabre in their very setting, but action is in place and, in that case, we moved very quickly. But not one body part, not one item in the category of pathological waste was found in the 200 or 300 tons of material washed ashore in New Jersey.

SENATOR PALLONE: Who even wants to talk about it, but what about the veterinary-- I understand that in Monmouth County, we had dogs, you know, dog bodies.

ASSISTANT COMMISSIONER DEIESO: We had one incident of a dog partially decomposed coming on the shore. I make a point of saying one, because it is very easy for us to get wrapped up in the emotion of this, and say there are dogs and cats and pets washing up on shores, and that simply isn't so.

SENATOR PALLONE: That incident, though, was part of the incident with Ocean County.

ASSISTANT COMMISSIONER DEIESO: It occurred at the same time.

SENATOR PALLONE: You are not sure it is linked, though?

ASSISTANT COMMISSIONER DEIESO: We would doubt it. Let me suggest to you that it wouldn't be the first time a pet has died and has found its way into a storm sewer catch basin, and then discharged during heavy rainfall into the ocean. That, too, is regrettable. Assemblyman Villane spoke to you this morning. I know, Senator Pallone, you are very much

interested in non-point source storm water control. I am afraid that that is our next issue in water pollution control.

SENATOR PALLONE: In other words, you don't suspect that that incident had anything to do with the illegal dump at sea?

ASSISTANT COMMISSIONER DEIESO: We have no reason to think so, but again, I want to just bring you back to the facts. There was one out of that 200- or 300-ton debris situation we had.

The other waste -- let me continue -- the bandages, the syringes-- Before that waste is disposed, it is autoclaved, sterilized and, in the case of syringes, the needles are clipped -- the sharp points -- and the syringe, which is the body with the plunger, is then disposed after sterilization. So, I wouldn't want you to believe that New Jersey's hospital wastes are moving through in a way that they are contaminated, or that they are disposed indiscriminately. It is not so.

SENATOR PALLONE: Don, not to contradict you, but what regulation says that the pathological wastes have to be incinerated? Frankly, I spoke to the Department of Health last week -- and I guess maybe I shouldn't mention the person, but it was one of the key people up there -- and he indicated that there was no requirement of incineration for pathological or infectious waste. Can you give me a cite--

ASSISTANT COMMISSIONER DEIESO: Senator, a representative of the Health Department is here. If you would like to postpone that until the end, we can certainly address it.

SENATOR PALLONE: Okay, we will do that. This is the reference I was given by him at the time, which said that all pathological specimens and waste, including gross tissue removed surgically or at autopsy, shall be incinerated, unless otherwise provided for by law. I got the information that

there were exceptions, that in some cases hospitals were not required to incinerate the pathological waste.

ASSISTANT COMMISSIONER DEIESO: Senator, that would come as news to me. I suggest we hold it in suspense until the end of the session.

SENATOR PALLONE: Okay.

ASSISTANT COMMISSIONER DEIESO: Let me be very clear, though. Every practice by hospitals-- These are responsible institutions; these are not midnight dumpers. Every analogue of using these folks as hazardous waste disposers doesn't work. A hospital administrator is there -- very responsible -- and he will do his best to see that the waste is handled in an appropriate fashion.

Let me say, too, on the subject of hospital waste, that our friends in Pennsylvania and New York City and New York State handle their waste accordingly, and very similarly to ours. In some states, there are provisions that are more stringent with respect to the ultimate disposal, but by and large material leaving a hospital is segregated first, and is given appropriate treatment to see that this contagion is not spread.

SENATOR PALLONE: And that applies to both the pathological and the other category in all three states?

ASSISTANT COMMISSIONER DEIESO: Yes.

SENATOR PALLONE: Okay.

ASSISTANT COMMISSIONER DEIESO: Let me move to the burn barges now, for brevity. I know, Senator Pallone--

SENATOR PALLONE: Don't move to the burn barges. You mentioned the second category of syringes, bandages, intravenous tubing, etc.

ASSISTANT COMMISSIONER DEIESO: Yes. Those are sterilized.

SENATOR PALLONE: But those need not be incinerated?

ASSISTANT COMMISSIONER DEIESO: That is correct.

SENATOR PALLONE: Those can be disposed of in a landfill.

ASSISTANT COMMISSIONER DEIESO: That is correct.

SENATOR PALLONE: Now, what about in New York? Do they require incineration for both categories?

ASSISTANT COMMISSIONER DEIESO: In New York City, hospital waste is neither disposed of in the Fresh Kills Landfill, nor is it incinerated. Frankly, it is transported upstate to landfills in upstate New York and/or incinerators in New York State.

SENATOR PALLONE: Does that apply to both the pathological and the second category in New York?

ASSISTANT COMMISSIONER DEIESO: I believe it does.

SENATOR PALLONE: So, New York does not require incineration for either category?

ASSISTANT COMMISSIONER DEIESO: New York City, as opposed to New York State. Mayor Koch, about a year and a half or so ago, took focus on hospital waste, and banned it from Fresh Kills because there were reports of sanitation workers being jabbed with syringes. That led to a crescendo of action, and he said, "Let's take no more of it to Fresh Kills." I believe he took the same action with respect to New York City incinerators.

SENATOR PALLONE: Everything?

ASSISTANT COMMISSIONER DEIESO: Everything.

SENATOR PALLONE: So, in New York City, both categories of patient floor waste have to be incinerated, but that is not true in New York State?

ASSISTANT COMMISSIONER DEIESO: Well, in essence-- Let me take liberty with the way I am going to phrase this. It was easy for Mayor Koch to say it would not go into his landfill and it wouldn't be burned in New York City incinerators, knowing that he had upstate to absorb the flow of his hospital waste.

SENATOR PALLONE: So, it is not necessarily incinerated anywhere in New York? There is no requirement that it be incinerated in New York State?

ASSISTANT COMMISSIONER DEIESO: There is. There are state regulations. Let me begin -- because I have done a marvelous job of confusing and obfuscating this--

SENATOR PALLONE: It is important, because we keep hearing all different, you know--

ASSISTANT COMMISSIONER DEIESO: I understand.

SENATOR PALLONE: Even the Departments have contradictory stories.

ASSISTANT COMMISSIONER DEIESO: Let me draw a distinction between New York City and New York State. New York City bans hospital waste from landfills and bans the burning of hospital waste in incinerators within the City. Enter New York State. New York State regulations are very similar to New Jersey's with respect to this waste. It is incinerated and it is landfilled, with state approval.

SENATOR PALLONE: So, you have the alternative in New York State of incineration or landfilling.

ASSISTANT COMMISSIONER DEIESO: That is correct.

SENATOR PALLONE: And that is true for both your pathological and your second category?

ASSISTANT COMMISSIONER DEIESO: Yes.

SENATOR PALLONE: So, the only distinction then between the two states is that New Jersey requires incineration of pathological, but doesn't necessarily for the second category. New York does not require incineration, or allows alternative landfilling for both.

ASSISTANT COMMISSIONER DEIESO: That is to the best of our knowledge, and let me suggest to you--

SENATOR PALLONE: Okay. It seems to change from day to day, but all right, I will take your word for it.



ASSISTANT COMMISSIONER DEIESO: I would say the definitive-- You have just about exhausted what our Department knows of hospital waste. We don't regulate it; it is a Department of Health matter.

SENATOR PALLONE: Okay.

ASSISTANT COMMISSIONER DEIESO: But, in the broadest sense, that is what we have.

SENATOR GAGLIANO: How does it get upstate or to other portions of New York -- if you know -- from the City?

ASSISTANT COMMISSIONER DEIESO: Senator, in the events of the last week, or the last two weeks -- the criminal investigation, the actions we took -- when we visit the hospitals in New York City, what they are careful to show us are the contracts with haulers. These haulers, now, will commit, and contractually they are bound to dispose of this hospital waste in an approved manner. Translated, that means a landfill upstate or an incinerator in upstate New York. Where the investigation becomes difficult, is now proving that that material that a hauler says he picked up from a certain hospital, actually made its way to an approved landfill or an approved incinerator. That becomes an important piece in your consideration of the manifest.

SENATOR GAGLIANO: There is no manifest system in New York?

ASSISTANT COMMISSIONER DEIESO: There is none. Let me also respond-- One of the questions you asked of the ISC a few moments ago was, is there any permitting? Is there any obligation that a barge of solid waste owes to any state or Federal agency, and let's say typically, leaving New York? The answer, to the best of our knowledge, is, there are no requirements.

SENATOR PALLONE: Now, is that different, though, with regard to the barges that New York City sends to Fresh Kills?

ASSISTANT COMMISSIONER DEIESO: With the exception of the nine marine transfer stations operated by the City of New

York -- and that is the Sanitation Department-- Those nine transfer stations, some in Brooklyn, lower Manhattan, will take and serve as the focal points of trucks. Those trucks are unloaded onto the barges, and those nine marine stations and their barges now transport that material to the Fresh Kills Landfill.

We are told, and we have confirmation yet to be received, that in addition to those nine marine transfer stations operated by the City Sanitation Department -- the New York City Sanitation Department -- the only other transfer station that exists in New York is one in Long Island City. The owner is Jeswalli (phonetic spelling), and it was the Jeswalli Transfer Station that gave birth to the Islip barge.

SENATOR PALLONE: So, there is that one operating marine transfer facility, other than--

ASSISTANT COMMISSIONER DEIESO: Yes, that is correct. Information and discussions with Jeswalli indicate that he has not loaded another barge since the Islip incident, and I am well told that he has not.

SENATOR PALLONE: And none in New Jersey?

ASSISTANT COMMISSIONER DEIESO: That is correct.

SENATOR PALLONE: No marine transfer stations?

ASSISTANT COMMISSIONER DEIESO: None of New Jersey's garbage makes its way to the ocean. I can say that to you with confidence, because, unlike New York, we know where every bag of our garbage goes. That is one of the benefits of the strong county plan and the strong waste flow rules we have. Also, garbage is a regulated commodity in our State.

SENATOR PALLONE: Now, are you going to tell us how things are disposed of?

SENATOR GAGLIANO: Excuse me. How does it get upstate again? I am not sure you answered that.

ASSISTANT COMMISSIONER DEIESO: Hauler and truck.

SENATOR GAGLIANO: All truck?

ASSISTANT COMMISSIONER DEIESO: All truck is what we are told.

SENATOR GAGLIANO: None of it goes up the Hudson River by barge?

ASSISTANT COMMISSIONER DEIESO: Apparently not.

SENATOR PALLONE: All right, but now what are the procedures once the material leaves the hospitals, both in New Jersey and in New York? What controls are there at that point?

ASSISTANT COMMISSIONER DEIESO: I would say the first line of defense is the landfill operator, who is permitted to receive certain categories of waste. Now, if that operator of the landfill isn't permitted to take a waste of this category, by accepting it he is violating permit conditions, and State enforcement agencies can do their job.

SENATOR VAN WAGNER: In what category of waste do you classify hospital waste?

ASSISTANT COMMISSIONER DEIESO: It is actually Type 28, as far as we are concerned. We are seeking to actually declassify this material, with the logic that it is properly treated coming out of the hospital. That is where we believe the real focus should be. If that material is neutralized, so to speak, coming out of the hospital, then we have every reason to believe that where it goes is less important.

SENATOR VAN WAGNER: Prior to, I believe, 1983, hospital waste was treated as another category, was it not?

ASSISTANT COMMISSIONER DEIESO: Type 10 or Type 13. I am not sure, Senator.

SENATOR VAN WAGNER: Were there not also other methods of disposal at that time? Were there not, in fact, individuals who were specifically charged with the hauling and disposal of hospital waste, rather than in the general hauling area?

ASSISTANT COMMISSIONER DEIESO: We continued to permit haulers for different waste categories. As you know, Senator, a hauler who is permitted by this Department for construction

debris, would also have to seek a license from us to cart solid waste -- municipal solid waste -- and then all of the categories therein. But, a good sense of history on what happened before '83, I am afraid I don't have, but I can get for you.

SENATOR VAN WAGNER: If a disposal operator were to receive, in a load of garbage from a compactor or a container truck, hospital waste that he felt he shouldn't be disposing of -- let's say he was only permitted for 10, 13, and 27 -- what steps would he take to ensure the fact that he would not be forced to dispose of that waste?

ASSISTANT COMMISSIONER DEIESO: First, in fact, Senator, to the point, this happened three weeks ago in Essex County. We opened two new transfer stations.

SENATOR VAN WAGNER: It has happened several times in Ocean County, also.

ASSISTANT COMMISSIONER DEIESO: Oh, yes. In fact, it is quite common. It depends on the instincts and the wits of the landfill operator or transfer station operator, to see that the material is there. I want to come back to the principle, you will not have us argue against a manifest system. You will have us suggest to you what we think is a way to make it work. But, your points are well taken. You will not hear from us that manifesting is unnecessary. We think it is. We have an idea we would like to share with you about how we think it can be absorbed in New Jersey's approach to regulating solid waste, but we need to check. We need to check.

SENATOR PALLONE: Are you going to tell us then, Don, what the present system is in terms of the material leaving the hospital and ultimately going to the disposal site, and about the manifest system that you would like to see improve that? Why don't you go into that now?

ASSISTANT COMMISSIONER DEIESO: Rather than create a RCRA type manifest system -- and we argue against it for two

reasons-- One, it took the Federal government two and a half to three years to set up the program. If we are going to suggest that this is a Federal program, intrastate matters understood, I suggest to you that it is going to be years before we see anything really develop at a Federal level. But we do think manifesting, or a system is necessary.

Here is what we offer: In New Jersey, at this point, we would issue to the haulers a coupon book. This coupon book would require that they sign their point of origin, picking up hospital waste from Hospital "A," and the second half of that coupon would be offered to the landfill or incinerator accepting it, to be signed by the landfill or incinerator operator and returned to Trenton for our records. Now, that approach has a couple of advantages. One, we could stop any truck at any landfill, simply ask for the coupon book, and if it isn't there, or it hasn't been properly filled out, we have the option of revocating the license.

SENATOR VAN WAGNER: You have that now, don't you? You have O&D forms that you require, don't you?

ASSISTANT COMMISSIONER DEIESO: Yes. Here is the distinction: We don't have the option now of checking with the landfill, and saying to the landfill, "Mail to us your records of the loads you have received." In this case, we would focus on hospital waste as probably the first type of waste we would look at in this system. It would be a relatively simple thing to do.

SENATOR VAN WAGNER: But you have the option of going into the landfill at any time and asking for the origin and destination forms, and checking the original and destination forms to find out where every type of waste came from.

ASSISTANT COMMISSIONER DEIESO: Let me tell you what happens, Senator. It happens in Ocean County; it has happened in Essex in the last few weeks. You will find that some haulers -- very clever haulers -- will place hospital waste in

the middle of a load of municipal solid waste, and they simply use the volume to disguise it. Now, that would be a clear violation of our coupon approach. If you handled any hospital waste in that load, there would be a coupon which clearly indicated, "Hospital waste aboard." That landfill operator, when presented with a coupon which indicates hospital waste, is alerted that it is hospital waste, and then, most importantly, signs it, and mails it to the Department, and we have a very computer-assisted way of determining where the solid waste is coming from.

SENATOR VAN WAGNER: So, you are proposing exactly the same method that you use with hazardous waste?

ASSISTANT COMMISSIONER DEIESO: With one difference.

SENATOR VAN WAGNER: The mailing of the coupon?

ASSISTANT COMMISSIONER DEIESO: The difference is, we won't check from the hospital administrator with signatures and manifest forms, and require a tremendous burden of record keeping that the Federal government would keep, as well as the State.

SENATOR PALLONE: Well, why don't we do that, but just with the State government?

ASSISTANT COMMISSIONER DEIESO: We can. Here is what would be the effect. We don't think our hospital waste -- New Jersey's hospital waste -- is making its way, by and large, to inappropriate places. There are cases, we find them, but the bulk of New Jersey's hospital waste is going where it should go. This recent incident is not a New Jersey issue.

SENATOR PALLONE: No, I realize it isn't; this one isn't. I just want to understand this, and I know we don't have a lot of time. I have a draft bill which I brought with me today that deals with the manifest system. It was modeled after the hazardous waste manifest system, but it doesn't have the Federal component. Okay? Basically, what we are saying is, when the material leaves the hospital, the hauler has to

sign for it pursuant to the manifest, and then it goes to the disposal site, and they have to sign, and then that goes back to DEP and back to the hospital. The hospital is legally liable for the whole chain of events, which I understand is the case with hazardous waste. Now, is this coupon system which you are suggesting any different, or would that basically implement it?

ASSISTANT COMMISSIONER DEIESO: One difference -- we would issue the coupon.

SENATOR PALLONE: You would issue it.

ASSISTANT COMMISSIONER DEIESO: It would give us control over haulers who are perhaps unlicensed. It is a possibility that a hauler will go to a hospital administrator and misrepresent that he is approved for handling this waste, and it only takes one load to make its way where it shouldn't.

SENATOR VAN WAGNER: I don't care about the authorship of bills, or anything like that, but the bill I was planning on drafting is patterned after a coupon system, since I have had experience in developing coupon systems for a landfill, as you know.

ASSISTANT COMMISSIONER DEIESO: Yes.

SENATOR VAN WAGNER: It is a good suggestion. In fact, I would like to ultimately see us go to revising the O&D forms in the same fashion.

SENATOR PALLONE: What about the liability, though, Don? You mentioned that as being an important factor -- the hospital being liable.

ASSISTANT COMMISSIONER DEIESO: We think Senator Gormley's suggestion for strict liability is a very good one.

SENATOR PALLONE: And we can implement that through this manifest system on a State level?

ASSISTANT COMMISSIONER DEIESO: We can. I think the net effect of those actions at the State level, would be to be very secure in the future that our waste will always be handled

appropriately. It will, of course, leave a gap for New York, but there are other ways to extract that, and perhaps a Federal initiative or a bistrate initiative would be time and energy well spent.

SENATOR PALLONE: But we can implement that liability as part of this manifest system. Okay.

SENATOR VAN WAGNER: Informationally, the New York legislators I have talked to and, in fact, some legislators in other states, have indicated a strong interest in developing a manifest system in the waste flow area, at least to create identical legislation in three states, possibly four states, or even more. One of the benefits of that, as a side bar, is that if one looks at the Clean Water Act, one can find that there are additional moneys available to states that do, in fact, enter into bistrate agreements for various estuarial planning and cleanup, and things of that nature. So, a bistrate approach, or a multi-state approach, if you will, would give us, and the Department, an opportunity to maximize Federal grant moneys.

ASSISTANT COMMISSIONER DEIESO: A fine idea. The National Estuary Program the Senator refers to is a good topic.

SENATOR PALLONE: Two other things in the bill: One, the requirement of incineration for all of what you call patient floor waste, and also the suggestion, which is in the bill, that we go beyond hospitals, and take in other medical or health care facilities.

ASSISTANT COMMISSIONER DEIESO: Let me defer to the Health Department on the impact. Of course, those regs, if they were changed, would affect patient care costs. It is something they are well-versed in.

SENATOR PALLONE: You would rather have them comment on that?

ASSISTANT COMMISSIONER DEIESO: Yes.

SENATOR PALLONE: All right. You might as well continue.



SENATOR GAGLIANO: Commissioner?

ASSISTANT COMMISSIONER DEIESO: Yes?

SENATOR GAGLIANO: If the patient floor waste was deposited-- I presume it is put in plastic bags--

ASSISTANT COMMISSIONER DEIESO: Yes.

SENATOR GAGLIANO: --before it then goes-- If the plastic bags were encoded, either printed directly with the name of the hospital on them, and the address, or a code number which would identify the hospital, wouldn't that assist us quite a bit on the strict liability issue?

ASSISTANT COMMISSIONER DEIESO: Senator, one of the facets -- and I am probably violating part of the criminal investigation, but it is too ripe an issue not to share with you-- We have every reason to believe that this hospital waste was very carefully unbagged before it was disposed. We say that because we have pieces of evidence which will show a top of a bag that was actually cut. This would lead you to believe that if someone were going to dispose of this, they could just cut the top of a bag, actually empty out its contents, and perhaps even screen it for location and any other evidence that might be--

SENATOR GAGLIANO: Commissioner, if that were done -- let's say it was not done at a hospital, because I can't believe hospitals would do that, or allow it -- it would have to be done at some facility.

ASSISTANT COMMISSIONER DEIESO: Absolutely.

SENATOR GAGLIANO: And if this were 200 or 300 tons, it would require dozens and dozens and dozens of hours, it would seem to me, for people to do that, or dozens of people to do that for each individual bag. Therefore, there must be a lot of people who are aware of what happened. It seems to me that that would lead to the criminal prosecution of the people who caused it. I don't know, but it just-- I mean, you cannot deal with hundreds of bags of garbage, without a lot of people knowing about it.

ASSISTANT COMMISSIONER DEIESO: Let me agree totally, but let me be very careful to say, we have absolutely no reason to think the hospitals were involved in a criminal activity. In fact, everything suggests that that is not at all what happened. Hospital administrators are not in the category of the midnight dumper. The hospital administrator signs a contract. He will pay a hauler \$1500 a ton to properly dispose of this material. That hauler has everything to gain, now, by illegally disposing of it. To the point that it would take loads of people to do some of these things, you're right, but in a budget -- and I was one who was very skeptical of this proposal, or proposition-- I don't know how many bags I could cut open in an hour, but I'll bet you it would be in the hundreds. Disposing of that material and moving it through is something that others were involved with -- a good number. The \$5000 reward is one way to perhaps find someone, and give him some conscience.

SENATOR VAN WAGNER: Were you not able to determine that it was a barge dump by the fact that it floated?

ASSISTANT COMMISSIONER DEIESO: There are ways, Senator, that you could--

SENATOR VAN WAGNER: In other words, if a barge dumps, the material normally goes to the bottom. Am I right?

ASSISTANT COMMISSIONER DEIESO: If you look at a bottom-loading barge, you are quite right. There are ways, and you could conjecture, as we have, loads of ways -- your idea was one that we considered -- that you could get large quantities of garbage into the ocean from a barge. It can be done.

SENATOR GAGLIANO: Well, you could sink the barge. You could just use an old barge that is worthless, and just sink it -- scuttle it.

ASSISTANT COMMISSIONER DEIESO: We've got it under investigation. Someone with a more diabolical mind might say, "Look for a way to explode the damned thing."

SENATOR VAN WAGNER: Containers are much cheaper.

SENATOR PALLONE: Don, let's move on, because we have to get to the woman from the Hospital Association.

ASSISTANT COMMISSIONER DEIESO: Just a few sentences on the burn barges.

SENATOR PALLONE: Back to this, though, what are the existing controls in New Jersey, or in New York, once the material--

SENATOR GAGLIANO: Senator Pallone, you asked him to go on.

SENATOR PALLONE: Yeah, I know, but I thought he was going to go on about that. What are the existing controls in New Jersey or New York once the material leaves the hospital now? Is there anything?

ASSISTANT COMMISSIONER DEIESO: Short of the permit holder at a landfill or incinerator operating in compliance with the law--

SENATOR PALLONE: That's it?

ASSISTANT COMMISSIONER DEIESO: --and the hauler operating in compliance with the law--

SENATOR PALLONE: Does the hauler have to certify that he took the material and sign a receipt, or anything?

ASSISTANT COMMISSIONER DEIESO: No. The hauler has an obligation, under his license, to properly dispose and handle this material.

SENATOR PALLONE: So, the hauler can pull up to the hospital, and he doesn't even have to sign a receipt or give anything to the hospital?

ASSISTANT COMMISSIONER DEIESO: He has a contractual obligation with the hospital, but you're right, there is no manifest.

SENATOR PALLONE: But it is not controlled by you in any way?

ASSISTANT COMMISSIONER DEIESO: No, Senator. I don't want you to be confused. We don't have a manifest system in New Jersey for hospital waste at this time.

SENATOR PALLONE: All right. We'll ask Barbara Britton about that system a little more.

With regard to the garbage -- before he moves on from that -- are there any other questions about garbage debris and hospital waste? (no response) We went through with the ISC the situation where right now a rogue barge could be traveling out from New York, from one of these -- at least from the one marine transfer station. Is it possible to have an illegal marine transfer station, other than the one you mentioned in Islip?

ASSISTANT COMMISSIONER DEIESO: I'm afraid that once we enter the arena of criminals, anything is possible.

SENATOR PALLONE: So, it could be that there is another way of getting out there, other than through these transfer stations?

ASSISTANT COMMISSIONER DEIESO: Absolutely; absolutely.

SENATOR PALLONE: All right, go on. You were going to discuss some other areas.

ASSISTANT COMMISSIONER DEIESO: Our burn barges -- and I know this is an interest of yours-- The fundamentals-- I have testified, and you and I have spoken at length about the value of the burn barge program. This is the material that is coming from the renovation of piers in Weehawken, Hoboken, Jersey City, Elizabeth, and Newark. That program, in total, is a \$60-million program. That \$60 million is one-third State -- \$20 million -- and \$40 million of it is from the Federal government. That \$60-million program was one that was intended to revitalize our harbors -- again, in the Hudson, Union, and Essex County areas.

The \$20 million coming from the State actually came from two bond issues -- one in 1977 and the other in 1980. I

say that because it has roots that go back, and it has roots that were intended to do two things, not only revitalize those areas, but also save a lot of landfill space. If there is any single reason we would continue to support properly regulated and properly done burning at sea of those timbers, it would be that we are in the midst of a solid waste crisis, and that 350,000 tons of timber occupying precious space in a landfill, would leave us 350,000 tons short of capacity for solid waste.

SENATOR PALLONE: But, Don, the problem is this: You saw the pictures. A lot of the material that is washing up on the shores, even with the hospital waste, is large telephone pole-like, you know, pieces of wood -- timber, charred wood. There was a significant amount of charred wood that washed up. That is a phenomenon that continues. The boaters are still complaining about it. They are going to the hearing that EPA is going to be holding in September. We are still having boating accidents. We still had to close some beaches, partially because of the wood.

This is something that is not acceptable to us at the Jersey shore. You mentioned the landfilling. Why can't it be incinerated the way it was previously? Why can't you just take that material and incinerate it on land in the traditional facilities you had before?

ASSISTANT COMMISSIONER DEIESO: The material we found on the shore in the recent incident-- We found very little of it charred. You are quite right. Last year, there was charred material.

SENATOR PALLONE: Well, there is some charred, because I called up the very guy who was on the video, and I was told that.

ASSISTANT COMMISSIONER DEIESO: Yes. There have been a couple of-- In fact, one large pier on our coast had an unfortunate fire this year. It is not unreasonable to think that some of those piers with fire had members that broke loose, but--

SENATOR PALLONE: Yeah, but the amount of the material, Don-- I mean, it was not just from the Long Branch pier fire.

ASSISTANT COMMISSIONER DEIESO: Senator, you're right, but the amount that was charred was a very small fraction this time. Last year, we appeared before you, and we said, "The burn barges are going unenforced, in our opinion." We committed to EPA that we would do their enforcing. If they were short on manpower, we would get our boats, and we would get our folks, and we have done so. There have been seven burn barges this year out to sea. We accompanied five of them. There are photos of what it looks like.

SENATOR PALLONE: Five out of the seven?

ASSISTANT COMMISSIONER DEIESO: Five out of seven.

SENATOR PALLONE: We were told by the Commissioner that he was going to accompany all of them.

ASSISTANT COMMISSIONER DEIESO: They began in February, before we were mobilized. Go ahead, George.

G E O R G E M c C A N N: Senator, since the signing of the agreement, we have accompanied all of them. Assistant Commissioner Deieso is relating how many we have had since the beginning of the year. We have been accompanying those. I do have some pictures I would like to share with you, so you can get an idea of the operation. These show you the extent of material that is on a barge, and on the reverse side you will see what is involved in the extent of the flames that engulf the wood that is burnt. It is an operation that takes several hours to days before a barge is burnt.

SENATOR PALLONE: But, George, you know, this is such a perfect example of the problem. I mean, first of all, EPA, and I guess DEP, kept saying they were going to put these stanchions, I guess, along the side to prevent this material from being dumped. Look at the height of that thing. There is no way. That material is going to fall right into the water.

ASSISTANT COMMISSIONER DEIESO: Let us tell you a little bit about what happens. The permit condition requires that the permittee follow the barge with a tug, a tug picking up any material that slips.

SENATOR PALLONE: Yeah, but that is the permittee himself.

ASSISTANT COMMISSIONER DEIESO: Oh, and the permittee complied. On those five burns that we accompanied, there was a tug picking up any material that spilled. So, we can say to you with confidence that the burn barges did not dump. The burn barges did not spill the material into the ocean. It was done as it should have been done.

SENATOR PALLONE: Are you going to continue with this surveillance?

ASSISTANT COMMISSIONER DEIESO: Yes.

SENATOR PALLONE: For how long?

ASSISTANT COMMISSIONER DEIESO: Indefinitely. The permit condition is 30 more trips, and certainly for the full extent of the permit condition.

SENATOR GAGLIANO: It seems to me, though, Commissioner, that it is piled awfully high. That might be fine alongside the pier or going down the Hudson River, but when you get outside, if you have six- or seven-foot swells, the stuff is going to come off. It is just piled up like a mountain.

SENATOR PALLONE: And that is what happens. You get the stuff before it gets to the site falling off. That is what the boaters and the fishermen tell me is washing up on the shores.

MR. McCANN: There has been material -- no question -- that has fallen off as a result of different swells in the ocean. As Commissioner Deieso said, there is a responsibility. We have witnessed the tugs that follow the barge to pick up any debris that would fall off, and they

capture, as far as our inspectors have evidenced, all of the material that falls off the barge. It has all been captured and recovered. So, we don't believe that any of it has been lost, certainly not in any kind of quantities. We are not able to explain some of the other wood we are finding in the ocean, but we are certainly aggressively tracking this material.

SENATOR PALLONE: George, what is the reason why we can't go back to incineration, which is what happened before? You know, DEP or EPA's opinion is that this material is not toxic. I don't agree with that, but, you know, their opinion is that it could be incinerated on land. Why isn't it incinerated on land?

ASSISTANT COMMISSIONER DEIESO: To prepare that, grind it and get it ready for an incinerator, is a tough technical chore. We don't--

SENATOR PALLONE: It used to be done 10 or 15 years ago.

ASSISTANT COMMISSIONER DEIESO: It was done with a little different technology. Those pieces were cut into six- and eight-foot lengths, and simply thrown into a furnace. That type of an incinerator would not get a permit in our State today.

SENATOR PALLONE: So, because of the more stringent incineration provisions on land, we are now burning it at sea? I mean, isn't that the bottom line?

ASSISTANT COMMISSIONER DEIESO: In the short of it, yes, but it carries a very short lifetime, and it is married to one project -- the Harbor Rehabilitation Program.

SENATOR PALLONE: Yeah, but I understand-- You know, Daggett says they are doing the EIS and they may very well designate this site permanently sometime next year. We don't want that. We do not want a permanent designation of the wood-burning site off the shore, and we don't want DEP to be part of it either.



ASSISTANT COMMISSIONER DEIESO: Senator, our commitment to this project is for New York Harbor and New Jersey Harbor rehabilitation only. We would make no statement to you today supporting this indefinitely. We have one \$60-million project, with 350,000 tons of timber that is going to be burned.

SENATOR PALLONE: So, you would not--

ASSISTANT COMMISSIONER DEIESO: Once that is finished, the issue, as far as I am concerned, is completely over.

SENATOR PALLONE: You would be opposed to the permanent designation of the site?

ASSISTANT COMMISSIONER DEIESO: We would have to understand why, and what advantage to the environment--

SENATOR PALLONE: Well, if you were to go along with us to say that you would oppose the permanent designation, that would make me feel a lot better, because I am more concerned about the permanent designation than I am about the interim permits.

SENATOR GAGLIANO: Because then we would have materials, I guess, from all up and down the eastern coast.

SENATOR PALLONE: Sure, and they wouldn't even have to-- They would have an extra--

SENATOR GAGLIANO: Wherever they had a pier that they wanted to dispose of, or an old barge they wanted to get rid of, they would say, "Just take it down to New Jersey and burn it."

SENATOR PALLONE: And they would have an expedited procedure, it wouldn't be as hard, and there wouldn't have to be public hearings everytime they wanted to do it. Now we cause a lot of problems because we require the public hearings and we screen. We don't even know when they have a permanent site.

ASSISTANT COMMISSIONER DEIESO: Your points are very well taken, and those are points we use to develop a position.

But, at this point, let me tell you that we support this for one project -- 350,000 tons of our debris and wood -- to revitalize our areas. Once that is finished, as far as we are concerned, the issue is an open one.

SENATOR PALLONE: Well, I just think it is a sad state of affairs when our own DEP is taking that position, but I don't know what I can do. We don't have control over the site, so we just have to keep chastising you and the rest for taking that position. I think it is a big mistake.

SENATOR GAGLIANO: They don't have any choice.

ASSISTANT COMMISSIONER DEIESO: Senator, I was very careful to say--

SENATOR GAGLIANO: In this instance, Frank, I don't think we can chastise them. They have no choice. If they want to clean up the harbors, there is no place else that they know of where they can dispose of these things. I guess that is what he is saying.

ASSISTANT COMMISSIONER DEIESO: Senator, yes, and let me also say--

SENATOR PALLONE: But no effort is being made to build an incinerator that would handle it, or to use another type of procedure.

ASSISTANT COMMISSIONER DEIESO: Mr. Chairman, I was careful to say that this project was funded by two bond issues offered to the voters of this State, in 1977 and in 1980. So, far from a DEP initiative, I suggest to you that what we have is an issue of such proportion and importance to the voters of this State, that they thought this action and this course of behavior was appropriate. DEP's responsibility is to see that it is done in the finest way and in full compliance with all permit conditions. To that, we can assure you that we will be on every barge; we will accompany each one out to see that all of the permit conditions are satisfied.

SENATOR PALLONE: All right. I guess we better move on. What are the other areas you were going to cover?

ASSISTANT COMMISSIONER DEIESO: We will go to Fresh Kills and the floatables. We think you should hear from us the status of the lawsuit that we have taken against--

SENATOR PALLONE: Right, we would like to hear that.

ASSISTANT COMMISSIONER DEIESO: We took that action last October, as you know. New York City just filed papers in the court asking for relief from the promise they made to build a fully enclosed barge unloading facility at Fresh Kills. Needless to say, we oppose that, and our affidavits are about to be filed with the court indicating that we will accept nothing short of either full enclosure or an equivalent system that will contain that material.

At this point, I want to give you the preliminary results of the study we did this year. We promised a floatable study. The Commissioner spoke of it before your Committee in several instances.

The first set of results we have in-- Let me describe it. We looked at 15 one-half mile stretches of beach from Cape May all the way up through northern Monmouth County. We did so on three different events -- or three different days: clean weather, after a storm, and at high tide. The findings were, to us, very revealing. First, the four Monmouth County beaches were the beaches that had 10 to 100 times more material on the coast than our Atlantic Ocean or Cape May beaches. No surprise to those who live in northern Monmouth County -- Long Branch, Keansburg, Ideal Beach, Sandy Hook North. It did, however, reenforce our view that a lot of that material is making its way out of Fresh Kills. To that end, within a few weeks we will begin a large-scale drifter study, releasing thousands of floats in and around the coastal area, with a request to our residents that if they find them along the shore, to pick them up and mail them to us. That is information that is going to

give us a characteristic of where the material comes from and what beaches it affects.

This is for the first time. No other state is trying to assess this. New Jersey, like Texas, Louisiana, Maryland, and Virginia is affected and plagued by these floatables coming up on our shores. So, that study is under way. We have the first results, and we expect to publish those within a few weeks.

SENATOR VAN WAGNER: Well, we know it is Fresh Kills.

ASSISTANT COMMISSIONER DEIESO: We are inclined to believe so now, Senator.

SENATOR VAN WAGNER: Well, it is, I can tell you.

SENATOR PALLONE: But, Don, one thing you mentioned was-- You said there are no hospital wastes going to Fresh Kills, or supposed to be going there. When we had our hearing last June, we went down to the beach in Woodbridge, and they were there. I mean, it didn't take much-- They were there.

ASSISTANT COMMISSIONER DEIESO: New York City Sanitation had five enforcement actions against haulers this past year, for bringing hospital waste into Fresh Kills.

SENATOR PALLONE: So, it does go on?

ASSISTANT COMMISSIONER DEIESO: It does go on. It goes on illegally, but it goes on with enforcement. It was one of the reasons they were so keenly interested in what washed up on our shore a week and a half ago. That became evidence for them in any investigations they are having with haulers.

SENATOR PALLONE: So, it is the same thing that you described before, where some of that material is getting into the regular municipal waste and going to Fresh Kills.

ASSISTANT COMMISSIONER DEIESO: It happens to New York City as well, and it happens here in our State. A very small fraction. I want to emphasize, it is a very small fraction.

Regarding the Fresh Kills lawsuit, as I indicated, we will take no less than the full enclosure, and the Attorney General is ready to move on that.

Sewage sludge: There are a few fundamentals I want to share with you today. As we speak, 50% of New Jersey's sludge is going to the 12-mile site. Fifty percent more -- the balance -- is going to the 106-mile site. In December of 1987 -- several months away -- all of New Jersey's sludge will be disposed at the 106-mile site.

Secondly, it was suggested that DEP permits ocean dumping of sludge. Let me offer you this: DEP approves of three disposal techniques for sewage sludge -- ocean disposal at the 106-mile site, land application, or composting, and third, incineration. We would join any who would seek to ban ocean dumping of sludge, provided we see exactly an equal momentum encouraging one of the other two alternatives. Euphemisms aside, that is one waste stream we are not going to stop.

SENATOR PALLONE: Well, when we talk about the five-year deadline -- and we have bills in; I think all of us have co-sponsored them, or whatever -- that would put the five-year deadline on and seek a phase-out between now and 1991. Is there anything in place at this point at DEP, or any kind of a plan, that would move in that direction by encouraging the other means of disposal? I think that is what the--

ASSISTANT COMMISSIONER DEIESO: We encourage land-based incineration, but I am going to say to you, and I say to this Committee, and I say to anyone who is going to testify, will you support land-based incineration over ocean disposal? Will you support composting over ocean disposal?

SENATOR VAN WAGNER: Sure.

SENATOR GAGLIANO: Yes.

SENATOR PALLONE: That is the reason why-- I mean, we are going to ask you back when we have our next hearing to talk about the pre-treatment issue, because that is linked to that. Senator Gagliano?

SENATOR GAGLIANO: No. It's just that the answer to the composting is yes, absolutely.

SENATOR PALLONE: Oh, absolutely, sure..

SENATOR VAN WAGNER: How much of New Jersey's sludge is ready right now to be composted?

ASSISTANT COMMISSIONER DEIESO: Right now, 50% of our sludge is incinerated. I'm sorry, 50% is ocean dumped; 15% incinerated; and the balance some land application.

SENATOR VAN WAGNER: Composition-wise, how much of the sludge we generate, under your standards for the land-basing of sludge, would meet the requirements of DEP to be composted?

ASSISTANT COMMISSIONER DEIESO: Let me look to the Director for approval. I would say all of it.

SENATOR VAN WAGNER: No, no, no, no.

MR. McCANN: The question I think you are asking, Senator, is particularly with regard to the material that is ocean dumped. As you know, the sludges from those facilities have an industrial component. It is the pre-treatment aspect of it that you wish to discuss further at subsequent hearings, that presently would prohibit the disposal of the composted material on lands within New Jersey. One of the things we have looked into is to make sure that as far as sludge handling is concerned, composted material that is a final product from sludge treatment, is of a quality that can be disposed of properly on lands in New Jersey, rendered inert as a sludge material, and then able to be used for other purposes.

Some of the sludges -- in fact, most of the sludges -- that are ocean dumped, now have a heavy metal component to them from the industries contributing, and that composted material could be composted, but the compost itself could not be disposed of on lands within New Jersey.

SENATOR PALLONE: It can't be incinerated either.

ASSISTANT COMMISSIONER DEIESO: It can be incinerated.

SENATOR PALLONE: Not all of it.

ASSISTANT COMMISSIONER DEIESO: All of the sludges can be incinerated. The issue is the degree of air pollution control. What comes as an issue is pure economics. If someone were to ban ocean disposal for the facilities in our State -- and that is an issue that is well within the hands of this Legislature-- If you would choose to have an initiative that said, "New Jersey-based--

SENATOR PALLONE: Our bills say that, Don.

ASSISTANT COMMISSIONER DEIESO: --authorities will not dispose of sludge in the ocean"--

SENATOR PALLONE: That is what we say.

ASSISTANT COMMISSIONER DEIESO: --there are ways to go.

SENATOR PALLONE: We're saying that we want that to be the case by 1991, and that we want to do what is necessary through pre-treatment, or otherwise, to get to that point.

ASSISTANT COMMISSIONER DEIESO: Senator, we need not even attach. We agree. We have a pre-treatment program. We are one of the most aggressive states in the country on pre-treatment. So, you will not see--

SENATOR PALLONE: We want the same procedure to exist for your sludges that you now have for ocean disposal -- to have the same criteria -- because then you will have a disincentive to ocean dispose. But, let Senator Hurley--

SENATOR HURLEY: What I hear you saying is, you don't, and we don't, have the technology now to handle the sludge that you are now ocean dumping.

ASSISTANT COMMISSIONER DEIESO: The sludge we are now ocean disposing could be incinerated. What the authorities in this State have balanced is the cost. I won't tell you that the cost of incinerating the sludge, with proper air pollution control equipment, isn't going to be much higher than ocean dumping. It will be.

SENATOR HURLEY: Let me just make a comment, because in my part of the State you are incinerating it, and you are

composting it, and you are not ocean dumping it. So, all of New Jersey's sludge is not going to the ocean.

ASSISTANT COMMISSIONER DEIESO: You're so right.

SENATOR HURLEY: In fact, some of it is going to Pennsylvania, at the moment.

SENATOR VAN WAGNER: Until they blow the bridges.

SENATOR HURLEY: Until they blow the bridges is right. We have a situation -- so we understand the sludge business entirely -- where sludge from New Jersey, or sludge composted in Philadelphia, for example, is being disposed of in New Jersey -- on New Jersey land.

ASSISTANT COMMISSIONER DEIESO: It is being land-applied. It is being land-applied to farms as a fertilizer or soil supplement or agricultural supplement.

SENATOR HURLEY: You can't call it a fertilizer, by the way.

ASSISTANT COMMISSIONER DEIESO: No, you're quite right. It's a supplement.

SENATOR HURLEY: Someone here made that statement. It's not a fertilizer. Is that under your control?

ASSISTANT COMMISSIONER DEIESO: Yes.

SENATOR HURLEY: This cannot be generally applied to-- We cannot take all that we are now disposing of in the ocean and compost it as they are doing in Philadelphia, or as they are doing elsewhere, and land apply it?

ASSISTANT COMMISSIONER DEIESO: We could take all of the ocean sludge today and compost some of it and incinerate the balance, but those incinerators are going to be costly.

SENATOR HURLEY: Mr. Chairman, it seems to me that we have to force the issue.

SENATOR PALLONE: That is basically what we are suggesting -- that we phase it out over five years, and do what is necessary to make that possible.



SENATOR HURLEY: You do have regulations now. Excuse me, Commissioner, but you do have regulations now on the disposal of sludge, and you are forcing incineration or composting in some parts of the State. But you are not able to apply that consistently throughout the State?

MR. McCANN: The regulations we have in place require approved disposal techniques. We monitor and regulate the land disposal of sludge directly, or the application of the composting, or the incineration. Now, for 50% of the State's sludges, there is an alternative of ocean dumping. That is there; it is permitted by EPA. If the authority -- or if the ability for authorities in the State to dispose of sludge is taken away from them, that would be another matter that the Department could enforce. But presently, by law, it is available to them as an option.

SENATOR HURLEY: To any and every authority?

MR. McCANN: No. The Marine Sanctuaries Act limited the ocean dumping site to those authorities that were dumping. New authorities cannot add to it. It is only those that are there who can dispose of it in that manner.

SENATOR PALLONE: We are going to get into the whole pre-treatment issue at the next hearing. Is there anything else you would like to add, Don?

ASSISTANT COMMISSIONER DEIESO: Just about the dolphins.

SENATOR PALLONE: Oh, yeah, let's get back to that. I hope Ms. Britton can wait another couple of minutes. (affirmative nod from Ms. Britton in the audience) All right, go ahead.

ASSISTANT COMMISSIONER DEIESO: This will just take 30 seconds. The dolphin situation is one that has grieved us tremendously. I just want to offer you some perspective. We are seeing about 10% or more of the dolphin population coming up on the shore.

SENATOR PALLONE: Ten percent of the whole population has washed up?

ASSISTANT COMMISSIONER DEIESO: Ten percent of the population off our states, and that's New Jersey, Virginia, and Maryland.

SENATOR VAN WAGNER: Do you prescribe to Dr. Schoelkopf's analysis?

ASSISTANT COMMISSIONER DEIESO: I will speak to you about what we know the science to be. The science says this, and we offer it not only from our own marine biologists and the autopsies and lab analyses performed, but they happen to coincide with the findings of NOAH. The dolphins died of secondary infections of the respiratory system. If we look at the cause-- These organisms that infected are organisms that are in the respiratory system of the healthy animal. They are ubiquitous, just as we have microorganisms that inhabit our system. Those microorganisms were present. They flourished because the organism was weakened, and it was weakened by one of three possibilities: First, by a chemical; second, by a natural toxin; and the third, by another microorganism. It is the opinion of DEP at this point that of those three, the one that is the most plausible is that it was another microorganism, something like a virus -- a naturally occurring virus that infected the animals, let their defense systems weaken, and let them then fall to the infections of the organisms.

SENATOR VAN WAGNER: So, you disagree with the Marine Mammal Stranding Center's analysis?

ASSISTANT COMMISSIONER DEIESO: We disagree with any proposition that links the death of these dolphins to hospital waste, to sewage sludge, to any outfall, and we disagree for a couple of reasons which I think are just logical. To think that this many dolphins over several hundred miles of Atlantic Ocean could all have been-- By the way, they are not migratory

at this time of year. These are not animals that move up and down the coast from Hatteras on down. These are animals that by and large stay in a very confined area. So now we would have to test the proposition that animals off the coast of New Jersey and off the coast of Virginia and Maryland, all came on a dose of chemical or a discharge that was responsible for this.

SENATOR VAN WAGNER: Well, that is not exactly what he said.

ASSISTANT COMMISSIONER DEIESO: Senator, I don't know his claims. I can speak--

SENATOR PALLONE: Do we have someone here from the Marine Mammal Stranding Center? Someone was on the agenda. (no response)

Don, if I understand what he was saying -- what is his name, Schoelkopf? -- he was saying that the cumulative effect of all the ocean pollution has affected one of these three categories you mentioned. Why isn't that possible?

ASSISTANT COMMISSIONER DEIESO: Well, Senator, anything is possible, but let's go to what science is about. Most of us spent our careers studying what is plausible, what has been demonstrated with the laws of nature. What has been suggested -- and whether that is the proposition by the Marine Mammal Stranding Center or others -- simply does not have basis in science. You can--

SENATOR PALLONE: Well, when you say a microorganism or a virus, where is the virus coming from? Isn't it--

ASSISTANT COMMISSIONER DEIESO: There are thousands and thousands of strains of virus that live in the ocean, as there are thousands of microorganisms that live in the ocean.

SENATOR PALLONE: I know.

ASSISTANT COMMISSIONER DEIESO: And on our hands, and in our hair, and in our bowels.

SENATOR VAN WAGNER: You might be saying the same thing. What I think he said was that the bottle-nosed dolphin

is a mammal -- okay? -- that spends more time in the water than humans do. And that there may have been elevated -- may have been -- levels of bacteria which that particular mammal, over a continuous period of time, was exposed to, because he doesn't come out of the water like a human being. He doesn't, you know, sun himself on the beach, so to speak. In being exposed to that over a period of time, the immunization system of the mammal began to break down.

Now, maybe that is traceable to another micro -- what did you call it? -- microorganism.

ASSISTANT COMMISSIONER DEIESO: Either bacteria or a virus.

SENATOR VAN WAGNER: Bacteria. But there is a bacterial linkage to what happened.

ASSISTANT COMMISSIONER DEIESO: Four or five years ago, in Warren County, New Jersey, our same biologist study, 1500 deer died. The symptoms were virtually identical to those of the dolphin -- thinning of artery and vein walls, internal hemorrhaging and release of fluid -- which was exactly the cause of death with the dolphins. The cause, as we understood it then, was a virus. It didn't spread to all of the deer of the State; it was limited to a very small geographical area. These things happen. Nature and biology will take its toll. To suggest that the dolphins are linked to ocean pollution, I am afraid is stretching all the science we know. If you can conjecture and you want to make it so, I am afraid that science does not support it.

SENATOR PALLONE: Well, you're not ruling it out. You're saying that the evidence you have is that the virus is not from that source. I don't know. I don't really understand why you are disagreeing with Bob Schoelkopf anyway. It seems to me you are saying the same thing, but maybe I am missing something.

Are there any other questions? Anything else you want to say?

ASSISTANT COMMISSIONER DEIESO: Thank you for the opportunity.

SENATOR PALLONE: Thank you for coming. We appreciate it.

We are going to have Barbara Britton from Mercer Medical Center, and then we are going to break for lunch -- or for not too long. We are going to take a break, or whatever.

Barbara, I have down that you are representing the Mercer Medical Center, but I think--

B A R B A R A L. B R I T T O N: That's right, I am.

SENATOR PALLONE: Do you have anything to do with the Hospital Association?

MS. BRITTON: No, I don't.

SENATOR PALLONE: Okay, I apologize then.

MS. BRITTON: That's all right. I have firsthand experience as a hospital administrator. I am Vice President at Mercer Medical Center in Trenton.

On behalf of Mercer Medical Center, I would like to express my support for any proposal which would accelerate the incineration of medical wastes that are toxic and/or infectious. Since it is our contention that incineration is the most responsible course for the destruction of hospital waste, I have worked with the Medical Center's facilities management personnel and consultant engineers to develop detailed plans for the implementation of such a practice. This plan involves the purchase of an incinerator with an energy recovery system and a building in which to house it. However, these plans have been frustrated by the lengthy administrative review process for getting the many permits and approvals required to build such a facility, as it stands now.

Now I would like to be specific about the problems encountered during the past two years by Mercer Medical Center. Mercer Medical Center was, for many years, served by G.R.O.W.S., Inc. Landfill in Morrisville, Pennsylvania, and all

of the hospital's solid waste was transported on a continuing basis to that landfill. During the late summer and fall of 1985, we received increasingly dire warnings from the landfill operators, through the Medical Center's waste hauler, relative to the types of waste that would no longer be acceptable for dumping. Since the hospital generates approximately 325-350 bags of waste per day, both dietary and infectious waste, the problem of disposal took on crisis proportions. We don't have weekends to catch up. We go seven days a week with the same kind of distribution. Finally, in late November, 1985, confronted with a probable loss of all dumping privileges at G.R.O.W.S., we were forced to seek more costly alternatives.

As a consequence, Mercer Medical Center began then, and continues now, to transport its dietary and paper waste to G.R.O.W.S. Landfill through its primary waste hauler. A second waste hauler agreed to transport the infectious waste to a certified landfill in Wayne County, Michigan. However, earlier this year, without any communication to, or approval by, any personnel at the Medical Center, the waste hauler changed the location of the landfill to one in upstate New York. The cost to the Medical Center, annually, is approximately \$170,000 for the removal of infectious waste, and \$30,000 annually for hauling to G.R.O.W.S., at a total annual cost of \$200,000. This is up the past two years. This is the kind of financial experience we have had, and prior to that, the cost for transporting waste had been somewhere between \$25,000 and \$40,000 a year. Recently, an additional insurance charge of \$120 was added to the \$3000 per load which the Medical Center currently pays for the infectious waste, and there is no guarantee that our costs will not rise still higher. Most importantly, there is an uncertainty about the destination of such waste, and there is no guarantee as to its ultimate destruction.

Therefore, until incineration can be broadly implemented on a municipal-wide basis, I would like to recommend to this Committee that legislation be passed authorizing an expedited approval process for incinerators for hospital waste. If necessary, interim permits should be granted for facilities whose plans meet all the standards established by Department of Environmental Protection regulations. This would enable Mercer Medical Center, and other hospitals, to advance the day when these wastes are handled responsibly on-site, rather than to be shipped to uncertain destinations.

In raising these issues concerning disposal of hospital waste, Mercer Medical Center is not alone. I believe that I am speaking for many other hospitals throughout the State of New Jersey that have encountered similar problems, but that do not have the opportunity of giving testimony today.

Although that concludes my written testimony, I would like to add my support to Mr. Deieso's contention about the manifest. Although you brought up the manifest as a very good idea, I felt it lacked the responsibility lying with the waste hauler as well, when I can't cross town without having a certified waste hauler take my waste anywhere. When I have that contractual arrangement with the waste hauler, you're right, he does come in, and he just picks up the waste. There is no manifest. It is a contractual arrangement. Then he takes the waste, presumably, to a certified landfill. But I have no way of tracking that to Michigan or to upstate New York. That is why I am an advocate of incinerators for hospital waste. You don't have that -- as the Doctor pointed out earlier in your program here-- He mentioned that there is always a problem when infectious waste is carried outside the site.

I believe in incineration, but should it have to be carried, I believe it should be with a responsible manifest.

SENATOR PALLONE: Thank you. If we had the manifest system, do you think it would be necessary to move to a system where the individual hospitals would incinerate? I understand that if we-- I don't know if we can require it. I guess we could by law require the individual hospitals to have incinerators, and expedite it and provide a funding mechanism, as you seem to suggest, for incineration on-site. Not only would that be very expensive, but there would be the permitting and all the things you mentioned. Do you think that would be necessary if you had the proper manifest system?

MS. BRITTON: I would still advocate incineration. The particular one we looked into has a waste recovery system. With that waste recovery system, hospitals can use that to lower their energy and heating costs. So far, what we would use ours for-- We are hooked up with co-generation here in Trenton, but they were not able to supply the steam required to run our laundry. We are going to use our waste recovery system to supply the steam for our laundry.

SENATOR PALLONE: So you think that we should not only do the manifest, but also provide an expedited permitting process and provide some sort of a funding mechanism for incineration on-site?

MS. BRITTON: Yes, I do.

SENATOR PALLONE: Okay, well, that sounds good.

SENATOR GAGLIANO: Would that fund-- Excuse me, go ahead, Jim.

SENATOR HURLEY: One quick question: Do you have knowledge of the number of hospitals -- individual hospitals -- with incineration systems?

MS. BRITTON: No, I don't know that.

SENATOR PALLONE: We do have some in Monmouth. I know that Monmouth Medical--

SENATOR HURLEY: We do, too, but I would like to know the magnitude of the problem.



MS. BRITTON: I would also like to add that I think it is important for those -- for any hospital that has incineration to be evaluated periodically, because some of the incinerators we are talking about may be very old incinerators, or may not be up to regulations and standards for taking care of the waste. That is why I advocate the part about DEP regulations and standards, because they have standards for the amount of toxics that are emitted into the atmosphere, and that is extremely important.

SENATOR HURLEY: But you have a feeling that there is an enormous problem here. In other words, there are more hospitals not incinerating now than are.

SENATOR PALLONE: Oh, yes.

MS. BRITTON: Yes, absolutely.

SENATOR PALLONE: It is definitely the minority that--

SENATOR HURLEY: Is there anyone here from the New Jersey Hospital Association?

SENATOR PALLONE: No, but it is definitely the minority that incinerate.

Now, one of the things, though, that Mr. Deieso mentioned was that the pathological waste is required to be incinerated, whereas the bandages, syringes, and all that, do not. How is that separated? I mean, if you don't have incineration on site, I assume that material--

MS. BRITTON: We don't have the kind of an incinerator that you are talking about that would take care of all our waste. Most hospitals have a small incinerator in the back -- a small incinerator for their own purposes. We have one. It's 25 or 30 years old. All we do with that incinerator is use it for our pathological waste and for incinerating our needles.

SENATOR PALLONE: But, theoretically, a hospital would have to separate those two categories.

MS. BRITTON: They are separated.

SENATOR PALLONE: And they are separated.

MS. BRITTON: They are separated internally, absolutely. There is a segregation process internally in the hospital.

SENATOR PALLONE: And that would be true for every hospital pursuant to regulations.

SENATOR VAN WAGNER: Do you reuse the energy recovery from the burning of your infectious waste?

MS. BRITTON: That is correct. No, we would.

SENATOR VAN WAGNER: You would?

MS. BRITTON: No, not right-- We would, when putting in the new incinerator.

SENATOR VAN WAGNER: What do you use?

MS. BRITTON: The maximum amount of steam that co-generation could give us was 60 pounds pressure, which is the 60 pounds we used for our sterilizers in the operating rooms. They could not supply up to 100 pounds pressure, which is required in the laundry. We would use our waste recovery system for that purpose.

SENATOR VAN WAGNER: Including the infectious waste?

MS. BRITTON: Yes, absolutely.

SENATOR VAN WAGNER: You would burn it and reuse the energy from it?

MS. BRITTON: That is correct.

SENATOR GAGLIANO: I just have one question: To your knowledge--

SENATOR VAN WAGNER: You've got a tough case with the DEP.

MS. BRITTON: Pardon?

SENATOR VAN WAGNER: You are going to have a tough case with the DEP.

SENATOR GAGLIANO: They already have it. They haven't been able to get it approved.

MS. BRITTON: Our plans and specifications are now in DEP. It just takes a long-- It isn't that we have any reason

to believe that we haven't done everything that we should do. We made sure before we went into this that the kind of incinerator that we would purchase would meet all Federal and State guidelines. I mean, we did that to start with. It is just a very long and lengthy process. Had we been able to shorten it with an interim permit, knowing that we met the regulations, we would then have been able to get it in a year ago, and we would not have had to spend \$200,000.

SENATOR HURLEY: Have you ever met Mr. Deieso?

MS. BRITTON: No, not in person.

SENATOR GAGLIANO: You ought to track him down. It's too bad he wasn't here when you testified.

My only question on that is-- I know that hospitals-- I am on a hospital board, and hospitals get together in terms of purchasing certain items. Are any hospitals in New Jersey getting together so they can deal with the incinerator problem together?

MS. BRITTON: They are trying to, but it is very difficult for waste haulers to cross your county lines. There is a lot to do with this waste hauling business that takes the responsibility from the hospital administrator.

SENATOR GAGLIANO: So, if you had your own incinerator, you would rule out the hauler, which is a real plus.

MS. BRITTON: That is correct, and you would not be dependent on someone else.

SENATOR GAGLIANO: I understand.

SENATOR PALLONE: Are there any other questions of Ms. Britton? (no response) No? Thank you very much. I think that insight was important to us. We may even get back to you. Thank you.

My indication is that we have the following people: From the Coast Guard, we have Lt. Commander Reilly, who I promised to do early. He will be the first witness after we come back.

SENATOR GAGLIANO: Why don't we try to finish up?

SENATOR PALLONE: I think we have about six people.

SENATOR VAN WAGNER: Go ahead.

SENATOR PALLONE: Do you really want to?

SENATOR VAN WAGNER: Yeah.

SENATOR GAGLIANO: It would seem to me that we ought to honor the Coast Guard's presence, and at least hear from them before a lunch break.

SENATOR PALLONE: Well, let me just see what we have: We have Lt. Commander Reilly, from the Coast Guard; Ken Smith is here; Mayor Beyel, from Upper Township; Jim Blumenstock is still here from the Department of Health; Valerie Maxwell, from Clean Ocean Action; and Dennis Crowley, from the AG, although he does not want to testify. So, we do have quite a few.

SENATOR GAGLIANO: Okay.

SENATOR PALLONE: Commander, does it matter to you if you go now or wait for a half an hour -- until after lunch?

L T. C O M M A N D E R T H O M A S R E I L L Y: That is your decision.

SENATOR GAGLIANO: He has to go back to New York.

SENATOR PALLONE: Well, the only reason I say that is because we are going to have to come back anyway. Why don't we just take a break, and he will be the first one when we come back.

SENATOR HURLEY: Either that, or bring us food.

SENATOR PALLONE: And he can eat, too, maybe. All right? We'll do that. We will come back at 2:15, and you will be the first one, Lt. Commander Reilly.

(RECESS)

AFTER RECESS:

SENATOR PALLONE: We are going to start the hearing again. It's you and I, Rich.

SENATOR VAN WAGNER: That's all it's always been.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Pardon me, is there going to be a transcript?

SENATOR PALLONE: Oh, yes, there is a recording being made of everything, and a transcript will be made available.

I promised to start with Lt. Commander Thomas Reilly, Captain of the Port, New York. He is with the United States Coast Guard, of course. Again, I want to thank you for coming. You never fail to come. You are not like the EPA. You are always here.

LT. COMMANDER REILLY: Good afternoon, Senators.

SENATOR VAN WAGNER: Commander, it is good to see you again.

LT. COMMANDER REILLY: I do not have a prepared statement. However, I would like to touch on some issues to tie the loops, so to speak. Specifically, I would like to get into the MPRSA -- the Marine Protection-- Let me get you the exact title here -- the Marine Protection Research and Sanctuaries Act of 1972. I would like to address some specific issues.

Just yesterday, we received the report from NOAH concerning computer modeling of the garbage that came ashore back in May.

SENATOR PALLONE: Oh, okay, that is a follow-up on our previous hearing.

LT. COMMANDER REILLY: So I can close the loop there a little bit.

SENATOR PALLONE: We would like to hear that, sure.

LT. COMMANDER REILLY: Then I will answer any questions you might have.

SENATOR PALLONE: Sounds good.

LT. COMMANDER REILLY: The Marine Protection Research and Sanctuaries Act of 1972 is in Title 33 of the U.S. Code, Sections 1401, et al. Basically, it addresses what can be

dumped and by whom over whom the United States has jurisdiction. The intent of the law is to keep the ocean clean, but there is a gap, which I would like to get into, and which MARPOL Annex V is now trying to cover.

Specifically, no person in the United States is allowed to dump at all in the waters of the United States. In this law, it specifically states that there is to be no dumping in the territorial sea or the contiguous zone, and by definition, the territorial sea is out to three miles from the coast, and the contiguous zone is out to 12 miles. It also addresses -- indirectly, but it addresses -- foreign flag vessels that are leaving from the United States going to another destination. They also apply to this law. What it does not address is foreign vessels that are coming in from foreign destinations to the United States.

The loophole in the law is, if a foreign vessel is 12.1 miles off the coast of the United States, and chooses to dump, we have no jurisdiction over them. There is no way we can violate them for doing that.

SENATOR PALLONE: And that, Commander, applies even within the three or twelve miles?

LT. COMMANDER REILLY: Well, if the garbage originates at 12.1 miles and happens to come inland -- and I think that is what you are talking about -- that is correct. We have no jurisdiction over that.

I would like to echo some of the earlier testimony, specifically with respect to MARPOL Annex V, because once MARPOL Annex V goes into effect, it will address that issue specifically. The United States has yet to ratify that treaty. We are in the process of getting ratification, or attempting to get ratification through Congress right now.

Coming back to the MPRSA, in Section 1417, it addresses enforcement of the law. I would like to take the opportunity to read directly from the law -- from the Section

entitled, "Surveillance and Other Enforcement Activity," and then I would like to address what we are doing:

"The Secretary of the Department in which the Coast Guard is operated shall conduct surveillance and other appropriate enforcement activity to prevent the unlawful transportation of material for dumping or unlawful dumping." Now, in earlier testimony, we told you specifically what we do concerning lawful dumping. Lawful dumping is also addressed in this law. I am not going to address it today specifically, except to say that in order to be lawful, it has to be permitted through EPA. We, as I have described in earlier testimony, have a set program for that.

Now I would like to get into unlawful transportation, because we also address that, and I think that is the crux of perhaps what we are talking about today. I would just like to say that in addition to responding to all maritime distress calls and casualties that occur within the Captain of the Port zone 24 hours a day, we do the following: There is a minimum of two harbor patrols, which are scheduled by the Captain of the Port, small boats, and there are three helicopter flights weekly scheduled through the Brooklyn Air Station. The purpose of these is to address, amongst other things, unlawful dumping. I want to get into-- We also do other things, other than looking for dumping.

For example, we are looking for-- Our first and foremost mission in the Coast Guard is to save lives. If there is a distress call, if there is a boater who is in distress, that is our primary responsibility. Right along with that, we also-- There are other response activities which we may encounter; for example, oil spills, fires, and maritime casualties, which would be someone drowning or a collision, or something on that order.

We also have other scheduled events dealing with maritime law enforcement and, of course, we are always looking

for something that is going on illegally. Within that scope falls what we do with surveillance of unlawful activities for ocean dumping and garbage-type issues.

That is about all I have to say about what we do. Just as an aside, I would like to address what Senator Van Wagner said earlier concerning garbage that may be originating from containers, because our harbor patrols-- It would be almost impossible to detect that from a harbor patrol. Perhaps that is where we ought to be looking -- in other directions.

Now, as a compliance branch officer, one of the programs I administer is looking into containers. What we are looking for is hazardous material that is being transported. We are looking at the hazardous cargo manifests, which is something you are attempting to apply now toward hospital waste. One of the areas we are not looking at is the monetary aspects of it. Perhaps there is a need for further dialogue in that area.

That about describes what we do. I want to impress upon you that resources are a key issue here concerning the monitoring of garbage unlawfully. All of our missions have to be taken into account. We are not manned to do perhaps some of the things that you would like us to do as far as garbage patrol type activities.

SENATOR PALLONE: You mentioned the computer model you have -- excuse me.

LT. COMMANDER REILLY: Yes, and I will get into that shortly here. Okay?

SENATOR PALLONE: Because I would like to hear about that, too.

LT. COMMANDER REILLY: All right. Secondly, in fact, just yesterday, we received a report from NOAH, which actually ran this computer model. Let me get out my notes here. There are a couple of parameters and assumptions that go into the trajectory analysis. This analysis is based on the equations



of motion, and it incorporates weather data, both airborne and water data, that have been provided by the National Weather Service. Some of the input criteria -- or some of the input data that we put in were that the origin of the garbage was at Seaside Park, which was the northernmost-- After speaking to DEP and various officials in Monmouth and Ocean Counties, we determined that to be the northernmost boundary of that particular garbage, and then it went southward down to Long Beach Island from there. The first siting of the garbage was on May 27 at nine o'clock in the morning. Those are the parameters that we input into this model.

The model has limitations, in that it assumes a point source, when, of course, it was a rather large area. I think what we are looking for here are generalizations. What can we say? With the information that was input, the model was run -- or backtracked -- for five days, and some general conclusions can be reached based on the data we have. First, the wastes were dumped at a point north/northeast of Seaside Park, based on the weather conditions in May. So, it was definitely a southwesterly flow to the area of impact.

The second conclusion we can make is, an area of 50% probability of dumping, which has a shape similar to a baseball bat or exclamation point -- something along that line -- extended to a position approximately six to nine miles off the coast, east of Sea Girt, New Jersey. That is when you back it up for five days. So, at any point along that stretch from Seaside Park to Sea Girt -- or six to nine miles off Sea Girt -- is where the alleged dumping would have occurred. Of course, we don't know where or at what time it would have been dumped, but we are looking at a time frame between May 23 and May 27.

The third thing we can say is -- just to give you an idea as to where that sits with regard to the ocean dumping at the 12-mile site -- that it is in the vicinity of that site,

but it does not intersect that site. So, as far as we can see, the possibility does exist, but it is not very conclusive.

SENATOR PALLONE: In other words, it was not that-- How far away from the 12-mile site was it?

LT. COMMANDER REILLY: It would have been within-- If we look at the outer-bound of the highest probability area--

SENATOR PALLONE: Right.

LT. COMMANDER REILLY: --it would have been about three to five miles away.

SENATOR PALLONE: Now, is that--

LT. COMMANDER REILLY: But, interestingly, it was within the 12-mile contiguous zone of the United States, according to the model, and based on our input, which is inexact and imperfect.

SENATOR PALLONE: May I ask you now-- We are assuming, based on the last hearing, that it was sewage sludge, as opposed to garbage, debris, or whatever. Was this south of the 12-mile site?

LT. COMMANDER REILLY: Yes.

SENATOR PALLONE: Why would a vessel that was coming out of New York Harbor be located dumping south of the site? What possible reason could there be?

LT. COMMANDER REILLY: Well, let me just caution, we only backtracked for five miles -- or for five days, I'm sorry. We could have gone further, and it would have probably extended that area of probability further north.

SENATOR PALLONE: But, Commander, what I'm saying is, if they were permitted to dump at the 12-mile site--

LT. COMMANDER REILLY: Why didn't they dump there?

SENATOR PALLONE: Well, we don't know that they were permitted to, I suppose?

LT. COMMANDER REILLY: Well, I think that is one of the points that is coming out of this hearing, as I am understanding the testimony. It appears as though much of the permitted activity is proceeding along as per the permits.

SENATOR PALLONE: In other words, it could have been one of these barges that was supposed to go to 106 because of the type of material it was carrying, or it could not have been permitted at all.

LT. COMMANDER REILLY: That's right.

SENATOR VAN WAGNER: May I?

SENATOR PALLONE: Sure.

SENATOR VAN WAGNER: I think you are focusing on a barge, primarily. Okay? Barges are bottom dumped; they open up at the bottom, and they dump. Most of the material -- and correct me any time I get off base-- Most of the material that is dumped in that fashion goes to the bottom. Not too much in the way of floatables comes up, correct?

LT. COMMANDER REILLY: That is correct with the sludge that is deposited.

SENATOR VAN WAGNER: Particularly with sludge. What I was getting at before, and I think what the Commander is focusing on a little bit now, is that there is perhaps a lot more extracurricular dumping activity. Okay? I wish our brethren from this morning were all here, because we tend to focus on what we know about, and we know about barges coming out of New York, and we know about Fresh Kills, and we know about the possibility of a short dump. The Coast Guard, with its numerous missions, really does a very fine job in surveillance and, believe me, they need more resources, because we have a heck of a lot more boats out there -- pleasure boaters and others -- than we had even a year ago. I know Commander Reilly will tell you that. It escalates -- the population in the ocean.

What is happening is, as the economics of the situation become more expensive, and certainly the 106-mile dump site requires a large economic investment, it becomes more probable that those who would engage in extracurricula dumping activities in order to realize greater profit, will do so.

What I am suggesting is that the kind of containers I talked about, for example, are very cheap to buy. If you are charging \$1500 a ton to dispose of one kind of waste, and you are able to go out and buy a container for practically nothing -- an old container -- and you can get that container hidden somewhere, and then go out with your disposal operation, or your hauling operation and go and get your \$1500 a ton, or whatever it is--

LT. COMMANDER REILLY: Or any operation.

SENATOR VAN WAGNER: Or any operation, okay, and then go to that container site and load up that container over a period of time, and wait for the right time, and then take the container and simply let it go, you have a perfect situation for an illegal dump. Now, meanwhile, the attention of most of our authorities is focused on the barges moving in and out -- into the bight area and out to the 106-mile limit, making sure they don't dump short, making sure that they comply with all of the other regulations. While they are doing that, the possibility for someone who is not going to play by the rules is enhanced.

SENATOR PALLONE: In this case, though -- this is the May incident--

SENATOR VAN WAGNER: Yes?

SENATOR PALLONE: --that was supposedly sewage sludge. At least that is what we were told by DEP.

LT. COMMANDER REILLY: The initial report that came out from DEP was not accurate, looking back at it in retrospect. It was coming from the direction of where the dump sites were.

SENATOR PALLONE: All right, but what I'm saying is-- Am I to believe now that not only what Senator Van Wagner is saying is probably true -- that we have garbage barges perhaps illegally out there -- but that we might even have sewage sludge barges that are not part of your normal permitting process?

LT. COMMANDER REILLY: I think the possibility of that is far more remote--

SENATOR VAN WAGNER: Than garbage.

LT. COMMANDER REILLY: --than garbage.

SENATOR PALLONE: But then this might have been what DEP suggested at the hearing, a barge that was carrying a certain type of material that was not supposed to be at 12; that was supposed to go further out. It became easier for them to--

LT. COMMANDER REILLY: It's possible that they short-dumped.

SENATOR PALLONE: Because otherwise, if they were that far south, it could just as easily have gone to the 12-mile site.

LT. COMMANDER REILLY: Exactly, except that they still have to go out-- We are looking specifically at the times involved. A barge, or a vessel, that goes out to the 106-mile site will report in with our Vessel Traffic Service, then with Sandy Hook, and then as it is returning, it also contacts Sandy Hook, and again the Vessel Traffic Service. So we are able to look at that window. We know approximately how long any of the given vessels -- or how long it should take them to transit. I don't know what the advantage is to short-dumping, but it is a possibility.

SENATOR VAN WAGNER: But if you have a troller of some type, or another type of ship -- forget about a barge for a minute -- another type of vessel, which has no intention of letting them know they are going out, which has no intention of appearing on anyone's screen, and which simply loads a couple of containers onboard, for which they have been paid a handsome sum of money, and goes out there and just lets go--

SENATOR PALLONE: But even for sewage sludge?

LT. COMMANDER REILLY: Well, I don't think for sewage sludge.

SENATOR VAN WAGNER: I don't think they would get involved with sewage sludge.

LT. COMMANDER REILLY: I think we should really-- I don't mean to focus on sewage sludge.

SENATOR PALLONE: No, but I wanted to focus on that specific incident. I know what Senator Van Wagner is saying is the larger phenomenon.

SENATOR VAN WAGNER: Figure it out. You have a widespread protest going on now at the Edgeboro Landfill in Middlesex County by haulers. They are protesting the fact that they have to pay exorbitant disposal rates, which come about as a result of DEP and BPU authorizing Edgeboro to increase its rates for environmental upgrading. These haulers find themselves in a fix where they can't pass that increase along right away. Now, I am not saying any of them are involved in this, but do you see the temptation there is?

You know, DEP always felt -- and I wish they were here -- that once we got these prices for landfilling up so high, people would just rush out, and say, "Give me a mass burner. Put one right here." That, of course, hasn't happened. So now you have a situation where landfill disposal rates have escalated enormously. Haulers now are looking at the economics of what they are locked into. We don't have any burners built. We have the cost of disposal going up. The scenario is set for privateers to come in, and say, "I am going to make myself some nice profits." If they think they can get away with it, they are going to do it.

I think what we saw, to a large extent, this summer -- and I don't say it is something that is going to be part of the general landscape-- Hopefully, we will come out with some recommendations and begin to start to really help the Coast Guard to enforce, and part of the proposal I made was to help them -- to coordinate with them. Hopefully, Congress will give them more resources to carry out the added missions they have.

The evidence, in my view, of illegal activity escalating, particularly this summer, is backed up by the situation that has been created by the fact that we have the crisis we have in solid waste. I mean, we are beyond a crisis in solid waste now. We are on the down side of the slope. By next year-- If you thought this year was bad, if we don't begin to focus on some real solutions, next year you are not going to even want to go near the Jersey shore. I'm telling you that right now, and I mean it. Next year is going to be Armageddon, because everybody who can possibly find an illegal way of dumping, is going to be looking for it. We better be ready with the surveillance and the enforcement, and we better be ready to throw these guys in jail when we catch them, because that is the only thing that is going to deter it. There is big, big bucks in this business. Figure it out; figure it out. If you can pay someone a couple a hundred bucks to take a container out, and you paid \$50 for the container, and you've got a lot of cottage workers who are willing to sniff the bags all night long, and you can put \$1000 a pop in your pocket, and you can do that 20 or 30 times a summer, and you are not reporting it to the Federal government--

LT. COMMANDER REILLY: There are a limited number of facilities along the shore within which this type of activity could occur. If I might make a suggestion to you--

SENATOR PALLONE: Sure.

LT. COMMANDER REILLY: --we work in conjunction with the Customs Department in our Container Inspection Program. Again, we do not look at the monetary value of a particular container. We have our ways of deciding which containers we are going to look at. We look within. We get together with Customs, because Customs does the same thing, except for law enforcement. They have other motives for looking into containers. They are tagging and tracking various containers up and down the coast. We are dealing with them directly, so that we don't inadvertently disrupt one of their missions.

SENATOR PALLONE: I just want to ask you a couple of things, though. There was mention made before about the black boxes, and we have brought that up. I believe Senator Gagliano made the point that you were accelerating placement of the black boxes on the sewage sludge barges. What is the progress of that? I didn't quite understand.

LT. COMMANDER REILLY: Okay. I spoke to the Senator back in June, and Captin North traded correspondence with him recently. The update is-- As you know, as of December 15 of this year, the 12-mile site will be eliminated, and along with the 12-mile site elimination, many of the vessels that are currently operating will no longer operate as sludge vessels. There are new vessels coming on-line; for example, the Tibbitts (phonetic spelling) Bay is a brand-new barge that the City of New York has just had built. There will be, as of the most current information I have, 16 vessels on December 16 transiting, or permitted to transit to the 106-mile site.

Our schedule, or our timetable, is to have-- We currently have three vessels outfitted with the black boxes -- the ocean dumping surveillance system -- and we will have an additional five outfitted early this winter. They are looking at January or February. They are looking at sometime next summer -- and I think realistically we would be looking at August or September -- to have the remaining eight outfitted.

SENATOR PALLONE: Of those 16 that will be around?

LT. COMMANDER REILLY: Of the 16, right. So that will take care of all of the 16 at that point.

SENATOR PALLONE: What is the reason why it takes so long? I mean, that is another year from now. We could go through the whole summer with a significant number not being outfitted. Why does it take so long? I don't really know. Why can't they be put on now?

LT. COMMANDER REILLY: They are not built yet.

SENATOR PALLONE: The computerized devices -- the black boxes themselves?



LT. COMMANDER REILLY: We have four of them. One of them we run tests off of, and three of them are currently installed, or outfitted. Headquarters has just put out a contract for bid to build the remaining ones, and we are looking at 13 more.

SENATOR PALLONE: There was a statement in the news media about how there were problems with them; there were some quirks with them.

LT. COMMANDER REILLY: We have not ironed out all of the bugs in the system; that is correct.

SENATOR PALLONE: But the ones that are operating so far seem to be operating fairly well?

LT. COMMANDER REILLY: There are some problems with some of those, also. I don't want to delude you with that.

SENATOR PALLONE: There have been? All right. Going back to the garbage barges again, which we know are out there, but we don't know where-- Right now, if you are loading at one of these marine transfer stations, or maybe one that doesn't even exist on paper, but is a bogus one, or something, there are no logs kept, there is no way for you or the EPA to know that one of these garbage barges is being loaded?

LT. COMMANDER REILLY: Getting back to the MPRSA, it deals specifically with those items that are dumped into the ocean.

SENATOR PALLONE: Permitted.

LT. COMMANDER REILLY: Permitted. Okay, that is with the permit.

SENATOR PALLONE: Which is like the sewage sludge.

LT. COMMANDER REILLY: Right, okay.

SENATOR PALLONE: Okay.

LT. COMMANDER REILLY: The condition is, they don't mention where it originates from; they mention specifically the destination, though, and that is in the water. The reason they are not permitted through the EPA -- the dump scows from the

City of New York -- is that the destination of the garbage is landside.

SENATOR PALLONE: Is the landfill, right.

LT. COMMANDER REILLY: So, it doesn't fall within that law.

SENATOR PALLONE: So, in other words, there is no reason to have a permit, because they are not being dumped in the ocean. Therefore, if you leave, like this transfer station on Long Island that was mentioned, there is no record that you left.

LT. COMMANDER REILLY: I am not sure, frankly, what the-- I can tell you that we work hand in hand with EPA concerning those dumping operations that are permitted. We attend the hearings and we have dialogue between the agencies. As far as the City of New York goes, I honestly do not know what their internal paperwork or bureaucratic process is. I don't know. I do know that they send 25 to 30 dump scows each day.

SENATOR PALLONE: The ones that go to Fresh Kills?

LT. COMMANDER REILLY: Yes, that go to Fresh Kills.

SENATOR PALLONE: And you don't necessarily monitor them, but they are required to, I guess.

LT. COMMANDER REILLY: We do not monitor them, although we frequently see them -- encounter them -- in our harbor patrols. They are also checking in with the VTS -- the Vessel Traffic System -- all the time. So we know that this activity is going on.

SENATOR PALLONE: That is not so much a problem maybe, in terms of your surveillance, as much as something that might be going out to sea.

LT. COMMANDER REILLY: Exactly.

SENATOR PALLONE: Going back to what Richie said.

SENATOR VAN WAGNER: Yeah. Commander, Senator Leichter and I are meeting in New York on the fourteenth. He

is the ranking member in the Senate Environment Committee in New York. Part of the legislation which I have proposed is to develop a bistate surveillance task force and an expanded marine division in New Jersey. In New York's case, what we hope to do is beef up the harbor patrol. Our goal on the New York side is to have a closer and more strict monitoring of the docking and loading of the garbage that goes from the transfer stations to the barges -- that goes to the marine transfer stations. We are going to look at some additional proposals, with the hoped for result of possibly eliminating even the marine transfer component, if we can. It was our view in our discussions that if we could get at a point source, we could start to reduce the amount of transportation that takes place of the garbage coming out of the harbor, which is going God knows where, in some cases.

What is your view of the ability of a multi-state operation in terms of coordinating--

LT. COMMANDER REILLY: We would support that.

SENATOR VAN WAGNER: You would support that?

LT. COMMANDER REILLY: Sure. Let me just add a little bit. There was a 50-mile slick that was in the vicinity of Toms River, and that is where the most recent incident occurred.

SENATOR VAN WAGNER: Right.

LT. COMMANDER REILLY: Our harbor patrols are daily coming back and reporting what unusual circumstances they see in the harbor. They are oftentimes reporting, for example, wood debris which is in the vicinity of various demolition sites. There are a lot of waterfront projects going on in Brooklyn and on the Jersey side. We do get those reports. We did not get a report indicating a slick at all from our harbor patrol areas. EPA gave us a call -- it was a Thursday evening -- requesting helicopter assistance, and shortly after that we actually did a helicopter ride with them. We didn't see that slick, or our harbor patrol did not see that slick.

Now, clearly if we had more of a presence, or if there was more of a presence -- whether it was from the Coast Guard or from somebody else -- and if there were some teeth behind the actions that such a patrol could do, then it would be apt to deter any dumping that would be happening in and around New York.

SENATOR VAN WAGNER: Senator Gormley talked about the notion of strict liability, and certainly we want to move toward that. But I also think we can amend our present criminal code, which carries a five- to ten-year penalty for illegal dumping, and clarify it in such a way that this type of activity is clearly covered under that statute, which is, I'm sure, one of the problems that the Attorney General's office is going to struggle with when they finally get to a prosecution.

The second part of that, which is a bill I hope to have in by the tenth, would be to put a minimum mandatory sentence behind it, so that a person who was engaged in this kind of activity would realize that not only was he going to face a very stiff fine and prison sentence, but that a portion of that sentence would leave no discretion to the judge. I think when those kinds of teeth are put into the law, your job is going to be easier, or at least somewhat easier, and the job of any force that we can put together to help you, at least out to that three-mile limit, is going to be a lot easier.

I think part of the problem is, if you look at fines that are given for some of the illegal activities -- let's say civil penalties -- in many cases, a person who is, let's say, economically driven, goes like that (demonstrates), and says, "What costs me more, the risk of paying this fine, or the amount of money I can make by charging the generator 'X' number of dollars for the disposal of the waste, and then disposing of it in any way that is the fastest and cheapest way for me to do it? If I get caught, I pay a fine." Well, big deal. He has already made his profit, and he has more than covered the fine.

I think that is part and parcel of some of the problems we face; some of the problems you face in dealing with these kinds of things. For example, I talked to Captain Momm -- Marine Police Division -- and I think they have one fixed wing craft available to them for coastal patrol. You have what, three helicopters? You cannot occupy your time with just surveillance.

LT. COMMANDER REILLY: Sandy Hook has some, also, for the New Jersey coast.

SENATOR VAN WAGNER: Sandy Hook has one or two, I think.

LT. COMMANDER REILLY: But, it is clearly limited, you know, whatever resources are available from all of the agencies.

SENATOR VAN WAGNER: These men get, probably on a summer weekend-- They probably get scores of distress calls from people, and their primary mission is to go out and save lives. If they get a call that there is a possible illegal activity going on relative to ocean dumping, and they have 25 calls about some boater who is in distress, they have to go out and help those boaters. They can't go out and, you know-- So, I think the notion of the states coming together and developing this task force approach, as much as it seemed to be decried here somewhat--

SENATOR PALLONE: We didn't decry it.

SENATOR VAN WAGNER: No, not by you. I think that would be a worthwhile endeavor.

SENATOR PALLONE: We have to; otherwise, how are you going to do it? There are no plans to--

SENATOR VAN WAGNER: We can bash everybody if we want, forever, but if we don't bring everybody together and start to say, "Hey, look, this resource extends all the way up to wherever -- the coast of Maine -- and God knows when the next activity is going to take place--" Those people who deal in illegal dumping activities make big profits, and if they find

it unprofitable in New Jersey, they will go someplace else and do it. It's as simple as that.

SENATOR PALLONE: You clearly have to have that type of enforcement unit. Are there any plans to beef up the Coast Guard budget or to provide you with more surveillance capability, at this point?

LT. COMMANDER REILLY: I don't know for how many years running now, but Congress has chosen to slash the Coast Guard budget. We are tasked with doing all we are doing, and a little bit more every year, with a little bit less.

SENATOR PALLONE: So, you have actually been cut back almost every year--

LT. COMMANDER REILLY: For many, many years in a row now.

SENATOR PALLONE: --in the face of all this increased activity.

SENATOR VAN WAGNER: I would like to take maybe a little bit of the \$485 billion the Navy gets and give it to them.

SENATOR PALLONE: I know I have heard there are going to be congressional hearings on this. Have those already been announced?

LT. COMMANDER REILLY: I read that in The Star-Ledger, I believe it was Sunday -- this past Sunday.

SENATOR PALLONE: Yeah.

LT. COMMANDER REILLY: As soon as Congress comes back from recess after Labor Day-- I have not been informed of it, but clearly we will cooperate and attend any of those hearings.

SENATOR PALLONE: Maybe that might lead to some effort on the Federal level to get some more money for you. But I don't think it is ever going to be of the magnitude you are proposing. We clearly need something along the lines you are proposing, Rich, I think. That seems to me to be crying out, from everything we have heard today.

SENATOR VAN WAGNER: I fully believe we can develop a multi-state coastal task force that can aid and abet the Coast Guard and the EPA, and put a big crimp in at least the illegal side of this activity. The other activities that are carried on, that are permitted, or whatever-- The only answer to that is to get out of the ocean. I think you were right in what you said earlier: Slap a deadline on it. A lot of us are going to have to swallow once we do that, because part of meeting that deadline is going to be some alternatives that a lot of our constituents aren't going to like. But, we're going to have to swallow it. I mean, we are going to have to sit there, and say, "Hey, we have to do this."

SENATOR PALLONE: I think we are going to move on. Thanks a lot, though. You are always very informative.

SENATOR VAN WAGNER: He's from New Jersey, too.

SENATOR PALLONE: I didn't know that.

I also intend to contact our Congressmen, and make the point that, you know, the biggest problem right now, it seems to me, is the budgeting aspect for you.

SENATOR VAN WAGNER: Yes, I think we should all write letters.

SENATOR PALLONE: If the Coast Guard is being cut back at the very time when all these new needs are there -- it's crazy. Thanks again.

LT. COMMANDER REILLY: Yes, sir.

SENATOR VAN WAGNER: Frank, they could cut back every year and get a bigger mission.

SENATOR PALLONE: We are going to have the Department of Health now, Jim Blumenstock, Chief of Field Operations.

SENATOR VAN WAGNER: Jim has been patient.

SENATOR PALLONE: I apologize. We tried to be a little more orderly today. I guess we were, but at your expense.

J A M E S   B L U M E N S T O C K: That's all right. It is a pleasure to be here. I do not have a prepared statement, but listening to this morning's testimony, I understand I have a lot of questions to answer, so I hope I don't disappoint you in that regard.

What I would like to do before we get into some of the questions that were raised is just a little bit of terminology, because I think it is important, especially in light of the video tape that was shown earlier this morning.

We use the phrase "hospital waste." It has been used a lot today, and it has been used over the past couple of weeks in a number of episodes we had to address. The Department of Health's position is, hospital waste is only that waste that comes from a hospital. We prefer to use the phrase "medical waste," because it is obvious that there are a lot of other generators out there -- other industries that generate waste -- that mimic or mirror the type of waste that comes from a hospital. Private practitioners, veterinary clinics, research and development facilities, even institutions of higher learning, generate the type of waste that we saw on the video tape this morning.

So I think that if it is the intent, through the manifesting we have talked about in the proposed legislation, to prevent that from happening-- I think the picture is much broader, other than just the 125 hospitals that presently exist in the State of New Jersey.

SENATOR PALLONE: Well, let me ask you this, Jim: One of the DEP representatives talked about how under current regulations -- and he was reading your Manual of Hospital Standards, which I have here somewhere -- when you talk about the infectious and pathological waste, it has to be segregated and it has to be sterilized, and that body parts, and that, have to be incinerated. Are there any Health Department regulations that apply those procedures to these other types of health care facilities?



MR. BLUMENSTOCK: To a limited degree.

SENATOR PALLONE: Do you want to get into that?

MR. BLUMENSTOCK: Yeah. The Department of Health regulates the generators for a primary reason, and the reason is not control of the solid waste. We regulate all health care facilities -- hospitals, nursing homes, ambulatory care facilities -- for the primary purpose of ensuring proper patient care. Within the proper patient care situation, is the environmental quality of the institution itself, solid waste handling practices being a component of the environmental quality aspect. So, admittedly, the regulations we have governing solid waste are a very small part of the broad approach we have when we go in to evaluate one of those facilities -- small, yet very important.

Other major generators of medical waste are the clinical laboratories and the blood banks. Those facilities are regulated by the State Department of Health.

SENATOR PALLONE: Clinical laboratories and blood banks. Now, what are clinical laboratories? Is that where you go for--

MR. BLUMENSTOCK: You may not go, but it may be a facility that your hospital or physician would send a specimen to, to be analyzed and, of course, they would send the reports back to the practitioner or the attending physician.

SENATOR PALLONE: And they are regulated in the same fashion, with the segregation and the autoclaving, or whatever they call it?

MR. BLUMENSTOCK: Exactly. So, we're not looking at 100% coverage of all the generators in the State of New Jersey. Of that percentage we do regulate, there are only in-state generators. Our Hospital Manual Standards would not apply to any hospital that would send its waste into New Jersey for disposal. Again, it is my understanding that New York haulers can still go to Edgeboro Landfill, or they have in

years gone by, to dispose of their solid waste. So any practices outside the State of New Jersey, our Department would have no control over.

SENATOR VAN WAGNER: They no longer go there.

MR. BLUMENSTOCK: Okay.

SENATOR PALLONE: What other facilities are we talking about? I know the bill I have drafted here mentions: hospitals, medical clinics, urgent care centers, ambulatory/surgical facilities, nursing homes, community health centers, veterinary clinics, doctors' offices-- I guess the list is endless.

MR. BLUMENSTOCK: Yes. The other category we throw into that would be your research and development facilities, your institutions of higher learning, your medical schools, even some of your college facilities.

SENATOR PALLONE: Yeah, we have those, too. I didn't mention them. But, in other words, in order to cover all those, we would have to include all of those facilities that generate what you call "pathological and infectious waste"?

MR. BLUMENSTOCK: The broad spectrum of medical waste, correct.

SENATOR PALLONE: Do you think we should do that -- I mean, adopt those same procedures?

MR. BLUMENSTOCK: Yeah. I would have to answer yes -- in the affirmative -- because if we are concerned about the 125 hospitals -- okay? -- that have been regulated for a number of years, and that for the most part have a very good compliance record, and we are concerned about preventing what happened two weeks ago, as well as some of the other episodes at the landfills that have occurred over the past number of years, not only from an environmental and public health perspective, but also from a logical standardization approach, they would have to be incorporated, if we want to truly keep that part of the waste stream out of the ocean.

SENATOR PALLONE: So, we should take care of all of these other health care facilities and put them under those rules. Now, the manifest system we talked about-- That would also be applied to all of those facilities. Okay. What about incineration? It is required, DEP said, for body parts, or whatever the term is.

MR. BLUMENSTOCK: The category we refer to is pathological and infectious waste. And in that category, there are some sub-categories. We use examples of: body parts, tissues, biopsy specimens. All those types of pathology specimens are required to be incinerated.

SENATOR VAN WAGNER: Have hospitals talked to you at all about DEP's feeling about the burning of infectious waste for reuse as an energy source?

MR. BLUMENSTOCK: Yes.

SENATOR VAN WAGNER: Do they permit that?

MR. BLUMENSTOCK: A number of hospitals are putting a lot of time and effort into research on in-house incineration, or resource recovery units.

SENATOR VAN WAGNER: Will DEP allow them to burn, among their other waste, infectious waste?

MR. BLUMENSTOCK: If the specification for the incinerator is appropriate to handle that type of waste stream, and if the incinerator is in accordance with their standards, yes. There are a number -- I shouldn't say a number -- there are several facilities that have been constructed in the past year. There is one I know of up in the County of Essex that has put one on-line, and there are another one or two that are just short of having them on-line. So it is an acceptable procedure, and it seems to be the direction they are going in.

SENATOR VAN WAGNER: What strikes me as interesting about this commentary we are having this morning -- commentary by you -- is that much of the objection to the burning of waste is that part of the waste stream which is considered to be

dangerous and hazardous. Questions have been raised as to whether or not the energy that is generated from the burning of that waste can be safely used for the purposes of heating, electricity, or whatever. I guess, based on the amount and type of waste the hospitals burn, the same concern is extended to hospital waste.

MR. BLUMENSTOCK: I guess the problem--

SENATOR VAN WAGNER: I guess; I don't know.

MR. BLUMENSTOCK: The close-to-home problems they are dealing with are, number one, community input -- their concern as to whether or not a new incinerator should be erected on the premises to begin with -- and then secondly, the technology. When you are dealing with hospital waste, you have a high plastics volume.

SENATOR VAN WAGNER: Right.

MR. BLUMENSTOCK: So DEP has an obligation to ensure that the incinerator that is being installed is capable of properly handling the waste stream that is going to be fed into it. That may -- again, not being an incinerator expert -- that may be an explanation for some of the difficulties that Ms. Britton brought up this morning, just because of the make-up of the waste stream. I honestly don't know.

SENATOR VAN WAGNER: I just wondered about that, because it would seem to be, obviously, a solution to part of the problem, vis-a-vis hospital waste. But at the same time, it made me wonder how hospitals would get around some of the burning requirements that are giving so much trouble to the proposed mass incinerators that are being proposed for some of our county facilities. Maybe it is that the volume is much less, I don't know.

MR. BLUMENSTOCK: Yeah, and I think it has to do with the transport issues, too.

SENATOR VAN WAGNER: Yeah, probably.

MR. BLUMENSTOCK: They are really in business to service no one but themselves. So I think that as far as community resentment, or resistance, you know, it is the fact of dealing with addressing other people's solid waste, even though the hospitals may establish a certain level of mutual aid or regional handling of the problem. It is not as massive as one would envision if you had a countywide service or a statewide service.

SENATOR VAN WAGNER: Do you think that is practical, from a Health Department point of view, or would you envision bigger problems with transportation?

MR. BLUMENSTOCK: For a facility having its own incinerator, assuming the technology is there to ensure proper air pollution controls, I think that is the direction many people are going to go. This morning, we heard testimony about the economics of the situation. Medical waste has never been an attractive commodity, and it is getting less attractive as the months and years go on when you are dealing with other states and some of the public health concerns that many of us have, whether they be real or perceived.

So I think if for no other reason than the economics, just to have control over your own garbage to a point where you can guarantee that it is going to be disposed of properly-- I think that is the direction that many of the hospitals will be more active in, if they have been passive in years gone by.

SENATOR PALLONE: Jim, I am still a little confused, though, about the waste disposal. I am looking at the standards for hospital facilities. The only thing I see down here that has to be incinerated-- It says: "All pathology specimens and waste, including gross and microscopic tissue removed surgically or at autopsy, shall be incinerated, unless otherwise provided for by law."

Now, all of the other categories, solid waste from microbiological labs, liquid waste from labs, solid, sharp, or

rigid items, such as needles, syringes, solid nonrigid contaminated waste, such as blood, tubing-- None of those are required to be incinerated.

MR. BLUMENSTOCK: Correct, to a certain degree. There are some variations to that. Incineration is always an option. It is not necessarily required.

SENATOR PALLONE: All right, but what I'm saying is-- You know, in this legislation, we put in incineration as a requirement for all of those items. Is that an improvement or, as far as you are concerned, would you just as well not incinerate all the other items?

MR. BLUMENSTOCK: Right now, in my opinion -- in the Department's opinion -- from a public health perspective, it is not necessary. The State of New Jersey has taken the position that there is a large percentage of the hospital waste stream that is not infectious.

SENATOR PALLONE: But these items are, though. These items I read to you are infectious.

MR. BLUMENSTOCK: Correct. Maybe we should go down the list one by one. I think it would make it a little more clear real quick. Microbiological specimens or laboratories' waste-- They have to be autoclaved.

SENATOR PALLONE: Right.

MR. BLUMENSTOCK: That renders it noninfectious, and after that is done it can be landfilled. The sharps -- the needles and syringes -- are the primary concern of everybody, as far as what gets into a landfill that shouldn't. By everyone's definition and interpretation of every law in existence nationwide, there should not be any needles or syringes intact once they get to a landfill. They have to be manipulated to a point where they are rendered noninfectious and inoperable. Some laws require parts of the needles and syringes, after they have been rendered noninfectious, and chopped up, ground up, crushed-- The remains must be disposed

of. But our law requires that treatment and disposal method. It is not only our law, but it is also a statute in the Department of Criminal Justice (sic).

SENATOR PALLONE: Yes, but what I'm saying is, by putting in a requirement of incineration of all these things, would there be an improvement, in the sense that you wouldn't have the danger that they are still-- I would see it as an improvement in the sense that if they had to be incinerated, then you wouldn't run into some of the other dangers, that they are not crumbled up properly, or whatever.

MR. BLUMENSTOCK: Addressing the sharps -- the needles and syringes -- I think that would definitely be an improvement. Most of the hospitals and facilities are doing it anyway, either in-house or contracting the services of a commercial facility to do it.

Getting to the other percentage of the waste stream -- the other 60% that was referred to as the patient side, or patient-oriented waste -- things like diapers from the nursery, disposable gowns visitors may wear to visit a healthy individual in a laboratory, but just for internal controls they are asked to put a gown on, blood tubing, bandages, gauze, tongue depressors -- the type of medical waste that is generated from a patient who does not have a communicable disease, the Department of Health doesn't feel it necessary for that waste to be mandated to be incinerated. We allow that type of material -- which is roughly 60% of the waste stream -- as long as it is double-bagged and properly handled, to be disposed of in a sanitary landfill in the State of New Jersey.

That causes, I guess, a bit of confusion, because when you hear the phrase "medical waste" or "infectious waste," many people have in their minds, and there are some definitions that do exist, that, in essence, that includes everything that comes in contact with the patient that has a medical orientation to it. We feel it is not necessarily true, in most cases, that it

is truly an infectious agent that would place an environmental burden, or put the hauler, the landfill operator, or the community at any greater risk than the general household garbage that comes from a residential area.

SENATOR PALLONE: Are there any other questions? I don't want to encourage you, I am just, you know, throwing--

SENATOR VAN WAGNER: I think it is obvious from the testimony we have heard today that we are at the fourteenth hour.

SENATOR PALLONE: That's for sure.

SENATOR VAN WAGNER: We have a massive solid waste problem. Hospital waste is really a relatively small part of that, although it has been dramatized by the fact that we had this tragedy occur on our oceanfront. We have some hard decisions to make.

SENATOR PALLONE: All right. Thanks a lot.

MR. BLUMENSTOCK: At this point, other than just offering the services of my Department in any research or development of any documentation-- The offer stands. It is there.

SENATOR PALLONE: Well, you basically said that the manifest system is a good idea, that the expansion to other health care facilities is good, and that some of the incineration requirements would improve things as well. So, that is tremendously helpful.

MR. BLUMENSTOCK: Very good.

SENATOR PALLONE: Thanks a lot.

MR. BLUMENSTOCK: My pleasure.

SENATOR PALLONE: I should say that Valerie Maxwell, who was here from Clean Ocean Action, had to leave. So, we are going to incorporate her testimony as part of the record.

Mayor, you're still with us. Would you like to be next? This is Mayor Daniel Beyel -- I hope I am pronouncing your name correctly -- from Upper Township. Is that Cape May?



M A Y O R   D A N I E L   B E Y E L: Cape May County.

SENATOR PALLONE: Oh, Cape May County.

MAYOR BEYEL: Sandwiched between, I guess, Ocean City and Sea Isle City. Senator Van Wagner and I have had some conversations on some other topics.

SENATOR VAN WAGNER: Yes.

MAYOR BEYEL: Less pleasant than today.

SENATOR VAN WAGNER: We sure have -- my moratorium.

MAYOR BEYEL: I appreciate the opportunity for you to call today's hearing.

SENATOR PALLONE: I'm sorry you had to wait so long.

MAYOR BEYEL: That's all right. I think the importance of the issue finds that to be necessary, because you have received a lot of input today, which I think is going to benefit the goal to eliminate ocean pollution and eliminate ocean dumping -- legal and illegal. I think that obviously in Cape May County, with our seasonal economy, with tourism our number one industry, with the spill that has taken place illegally, we did have lingering effects that reached all the way down to communities and beaches in Cape May County, which we were talking about.

SENATOR VAN WAGNER: Did you have to close?

MAYOR BEYEL: We didn't have to close, but the news media did pick up on the fact that medical waste and some of the other debris did reach isolated surfaces in areas of Cape May County from the northern migration.

SENATOR VAN WAGNER: So it probably hurt your weekend, that's for sure.

MAYOR BEYEL: It was not a benefit. It is something we have no control over. I think what we are working for, and you are, too, is to have a bistate agency, and have the State participate more in getting out-of-state problems that affect us--

SENATOR VAN WAGNER: I had some interest expressed from Delaware, so I think that's good news -- down at your end.

MAYOR BEYEL: Tristate.

SENATOR VAN WAGNER: Yeah. Well, I am starting to talk about it as multi-state.

MAYOR BEYEL: In our county we have a new landfill that meets current DEP requirements. We are working toward the next phase of incineration or other alternatives. But the economic considerations make it worthwhile for-- We are having problems on land dumping, where refrigerators, furniture, and products of this sort -- where people who don't want to take them to the landfill, take them to the areas of our community and dispose of them illegally. So we have a bounty enacted to encourage citizen participation, and for them to pay closer attention to where these vehicles go at odd hours. I think the bounty system on the ocean side would be an asset, also.

I think the other thing you can strive to include is-- If there is some of this property, and there are ongoing illegal operations, confiscate the property of those people, sell it at auction, and use that money to fund additional surveillance. Return that back into a system that will have a benefit to all the people along the coast.

It is necessary to expand, I guess, surveillance, through Federal and State levels -- through the State Police, the Coast Guard, etc., if it is economically feasible.

This year we have had a lot of comments about the dolphins, the large-scale phenomenon that hurt 10% of the population in the area. The question remaining in the minds of most tourists who have visited our county when they leave, is if they don't see some real strong steps taken by the State, whether or not they will return next year. Fortunately for us at this time, a lot of it has occurred at the end of the season. If it had occurred at the beginning of the season, I think you would probably have every mayor from our county up here today, very incensed.

We should take strong steps to take some sort of legislative action and follow through with increased enforcement. Then, at the beginning of next year, when the tourist season which affects the economic base in our county begins, we should have positive news releases and information to let people know that, while there have been problems, we are addressing them, and are trying to safeguard them and prevent those problems from recurring. And that if people create a problem, we are going to deal with them seriously with higher fines, mandatory sentencing, and things of this sort. This will be a very strong deterrent. Because of the economic incentive and the higher disposal on land for this type of solid waste and sludge, we can revert back to having our environment safe for ourselves and for our visitors. I think that is our main concern.

We have land use in our community. Also, the Pinelands zone is in part of our community. We have CAFRA zones; we have wetland zones. Essentially, we have the coastal zone, some of which is not in our municipal boundaries, but is in our State boundaries, and we want to make sure that we maintain it environmentally safe.

The manifest system that was described here today should be implemented, as well as the strict liability for people who generate the waste. No matter where it arises from, they should be held accountable, even if there are two or three intermediaries in its disposal. The multi-state task force should be organized and staffed and put on high priority as far as implementing the reduction of illegal dumping, and offering public comment to indicate that we are going to make an example, if we can, of the first person we are able to apprehend and convict, in order to eliminate any future activity. If we make it so unacceptable, and meaningful to everyone, that would provide a negative incentive for anyone to undertake it in the future.

We feel in our area, essentially, that the sludge dumping, or sewage dumping at the 106-mile limit should be phased out as quickly as possible. We don't feel that should be permitted at all. With all of the other environmental concerns that are taking place, the ocean is really not the place to dispose of things. We have to use incineration, or composting, or some other method to recycle some of this material and use it up for land-based applications.

So, the quicker we can eliminate ocean dumping -- either legal or illegal -- the better off we are going to be. I think that is basically all I would like to say. I appreciate the fact that the Committee has convened at a time when the issue is of utmost concern in our county, and I guess in all the coastal counties. This is an issue, for myself, that is a family issue. You sit down at the dinner table, and when your children ask you, "Why is this type of material washing up on the beaches?"-- It is a very difficult thing for them to understand. In a sense, we are the protectors and the elected officials who are looking out for our environment for the other people of the State. We have to take the steps to protect those who cannot protect themselves. You would hate to see a youth in the ocean with a syringe or a hypodermic needle sticking in part of his body, without him even knowing if it was a jellyfish or a crab, which is a natural thing that occurs there.

The waste you see is unacceptable, and we have to do whatever it takes to eliminate any potential injury or health problem. Thank you.

SENATOR PALLONE: Thank you, Mayor, for your concern. We appreciate your coming all the way up here.

MAYOR BEYEL: Thank you.

SENATOR PALLONE: Last, but certainly not least, we have Ken Smith, Director of the New Jersey Shore and Beach Preservation Association. What happened to the--

K E N N E T H   S M I T H:   Good afternoon, Senators.   What happened to what?

SENATOR   PALLONE:   I   thought   the   name   of   your organization had changed, but it hasn't.

MR. SMITH:   We are a section of the American Shore and Beach Preservation Association.   I will just tell you a little bit about the group.   The National Association was formed in New Jersey in 1926.   I started the New Jersey section in 1981.   We have about 2500 members nationwide; about 200 in New Jersey.   Our membership includes some municipalities, a couple of realtor boards, interested citizens, and coastal engineers.   Our main focus on the national level--   We are the main sponsor of the Coastal Zone Symposiums, which are, by now, probably the largest coastal conferences put on.   They are put on every two years.   We just had one in Seattle, with over 1000 attendees from around the world.   We focus on everything from oil spills to title marsh protection to beach nourishment -- all kinds of coastal problems.

In New Jersey, my Association has mainly been concerned with beach restoration, promoting projects like beach nourishment, which build up the beaches, and promoting the protection of the development which provides the facilities to enable people to recreate at the coast.

That is really not the problem now.   Coastal water quality is the problem.   It doesn't matter if you have a 200-foot wide beach.   If it is full of garbage, nobody wants to go to it.

I am also a member of the Ocean County Board of Realtors and a member of the Long Beach Island Chamber of Commerce.   I can tell you that the problem, I think, is just about as bad as it gets.   I have seen letters from people who have been coming to the shore.   One letter from from two couples who said, "We spend about \$10,000 a year.   We have been coming here for 15 years, but we are not coming back until the

problem is straightened out." We have cancellations of leases. It is not the fact that the hypodermics were on the beach, or that someone could get stuck with them -- in fact, I think a child did get stuck with a needle, and also a woman did -- but it is just the threat that they are there which is enough to put a dent in the tourist business. You have, approximately, an \$11 billion tourist industry, which is centered on four coastal counties. There is a lot of competition for summer tourist dollars in all areas of the nation, and I think the advantage that the New Jersey shore has, is that it is close to the New York and Philadelphia urban areas.

But, be that as it may, if things like this keep happening, it is going to put a serious kink in tourism. Basically, what my group is doing -- myself mainly-- We are trying to educate ourselves. We are trying to track the legislation that is in place or that is proposed. I am really a neophyte in the clean water business. As I say, it was not in our purview before. We are willing to offer our services to other environmental groups who would work with us to pressure for clean water. We co-sponsor seminars; in fact, we just put one on last week in Long Beach Island -- a coastal conference. The agenda was set two months ago, and included a lot of beach restoration stuff. When we got to the conference, of course, the whole focus had changed, and clean water was the issue.

I have noticed a difference. I sell real estate, and my office is right on Route 72, the main road going to Long Beach Island. Every Saturday afternoon the road is jammed with cars for about four or five hours. It's like a parking lot. It hasn't been for the last two weeks. If you want to get on the island on a Saturday afternoon, you just drive right over. That's telling me something.

As far as legislation, as I say, we are just getting into it and educating ourselves. The MARPOL Annex V accord

sounds interesting. I would like to get copies of it, and we have sent for them. It appears, from what I have heard today, that there are very few regulations governing the garbage barges. Perhaps some Federal legislation is necessary. As I understand it, Connecticut does not monitor the destruction of hospital waste. I don't think they require incineration, do they?

SENATOR PALLONE: I don't remember what was said about Connecticut.

MR. SMITH: Nor Massachusetts. Massachusetts has waste that is coming down past the shore.

But anyway, even if the law says it must be incinerated, somehow the stuff is ending up on our beaches -- somehow it is. I support your concept of a manifest system. I think that would be a good step in the right direction. But, you know, for years we have tackled this problem, and have tried to come up with ways to end the dumping, to solve some of the garbage that is washing up on the beaches. Long Beach Township sued New York City about five years ago. They spent \$100,000, to no avail. It was thrown out of court. They got nowhere with it. People are just completely fed up, down at the shore.

We will have a meeting of the Chamber of Commerce locally on September 8, and we have someone coming down from DEP. He is going to be on the hot seat. A lot of people are mad. A lot of people really don't know what to do.

I would like to make just a few recommendations. I think the most important thing is to coordinate the State, Federal, and international legislation and agreements. Where there are gaps that exist in legislation and in regulation, let's plug them up; let's look for ways to plug them up. Stiff fines and penalties for polluters-- I definitely go along with that, but that is not really my main concern. I hope they find the polluters, and I hope they punish them, but the fact is, it

hasn't been a deterrent yet. The problem is, unless you make it physically impossible for these barges to dump on our shores, it just takes one spill to ruin our tourist season. Perhaps that is something we should be looking at -- ways to physically preclude the ability to dump prematurely.

I recommend the phasing out of ocean dumping by 1991. There is now no incentive for land-based alternatives. In fact, every time you try to site a land-based site, you run into "NIMBYs." NIMBYs are a whole class of people who have been spawned by this land-based alternative siting. It means, "Not In My Back Yard." There is a little bit of NIMBY in everybody, I think, but it is something we have to deal with.

Also, I really support the formation of this new coastal commission that has been proposed by Governor Kean. I would hope that it would have some purview over clean water, and that it would have sufficient authority and funding to coordinate an effective clean water effort.

On the local and county levels, you know, on all levels of government, there are things we can do. Again, this is where coordination comes in, and where maybe the coastal commission can step in and function as a coordinating agency. For instance, utility authorities. They should periodically check and maintain their facilities. There should be safeguards. You know, a week after this garbage washed up on the beaches, I thought, "Well, all right, that's terrible." That was bad enough, but all of a sudden I read in the newspaper that two million gallons of raw sewage dump out on the beaches from, Deal, I think it was. There were reports coming out over the radio, asking people to go to their doctors if they swam in the ocean. I mean, that's just terrible.

Those are things that just can't be allowed to happen. It only takes a few of them, as I say, to put a big kink in tourism. Locally, beaches are closed because of non-point pollution. Simple things like pooper-scooper laws,



you know, things that may be tough to enforce, but-- For instance, landlords should be required to buy eight garbage cans instead of two. They put two cans out, they fill up, people put plastic bags out, the sea gulls get to them, and the stuff goes all over the place, ends up in the storm drains, and consequently in the bays.

The main problem, as I see it, is not local. There are local parts to it, but it is regional; it is interstate; and it is international. I sailed up to the Statue of Liberty last year for the celebration, and when I hit the waters off of Sandy Hook, it was just loaded with garbage. I mean, everything under the sun floated past me.

I love the shore, but I am not going to put my kids on that beach, not until he gets cleaned up. I have lived there most of my life, and it just sickens me.

SENATOR PALLONE: Ken, when you say that, I know the situation is bad.

MR. SMITH: It's serious; it's serious. I am not going to tell you--

SENATOR PALLONE: I never thought I would hear you say something like that.

MR. SMITH: I didn't either. But what did the man from DEP say today? He is more concerned about the sterility of the objects that are going into the water than he is with where they are going. That doesn't wash with me, not at all, because I don't think that is something you can safeguard with legislation.

My Association is committed to a developed coast. I think New Jersey is committed to a developed coast. It is the most heavily utilized coast in the nation. We have 20 million people living right next to the New York bight. We have 25% of the nation's population living in a 300-mile radius of Atlantic City. There have got to be ways found to ease that collision between human activities and the environment. That is our responsibility.

I commend your Committee. I didn't even know your Committee existed, but I am glad it does. I hope that out of this, if we can do nothing else, we can at least coordinate the different efforts between different governmental agencies and different types of legislation, some which may be at cross purposes with each other. I think that would be the best thing we could do.

SENATOR PALLONE: I just noticed on my way down today, in The Asbury Park Press, it was mentioned that in certain municipalities in your area, the mayors could show significant losses in their income from beach revenues because of the pollution, and they are seeking some sort of State aid program. Do you have any idea of the magnitude of that at this point?

MR. SMITH: No, I don't.

SENATOR PALLONE: Okay.

MR. SMITH: I know that several of the realtors down there were looking for documentation. If someone cancels a lease, we would like to get a letter from them stating why they canceled the lease, and if it has to do with the pollution situation, we are thinking of filing a class action suit.

SENATOR PALLONE: Thanks a lot, Ken. I appreciate it. I guess that's it.

I want to thank everyone for coming. I also want to thank the reporters for taking all of this down. This has been a relatively light session for us. We had one that went to eight o'clock at night. Thank you, too, Pat. (addressed to Patricia Cane, Committee Aide)

I don't think we have a date yet for our pre-treatment hearing, but we will have it later this month. Thank you again.

(HEARING CONCLUDED)

## **APPENDIX**

STATEMENT BY CLEAN OCEAN ACTION  
SENATE SUB-COMMITTEE HEARINGS  
ON COASTAL POLLUTION  
STATE HOUSE ANNEX  
AUGUST 26, 1987

My name is Valerie Maxwell. I am speaking in behalf of Clean Ocean Action, a broad-based coalition which represents 75 diverse organizations, whose members support our goals to identify and eliminate the sources of ocean pollution. I am also speaking with the support of the Monmouth County Friends of Clearwater, who endorse COA's stand here today.

All of us here today are troubled by the state of our ocean. Events of the last several weeks are clear indicators that our ocean is seriously ill. We are here to ask that the ocean be given a rest from the degradation that it is constantly forced to suffer. We all want to put an end to the plague of plastics, chemical wastes, and sewage that wash up onto our shore. We also want to protect the animals like the bottle-nosed dolphins whose deaths clearly demonstrate that off-shore problems are also significant.

We are not here to point the finger of blame but to propose a plan which will allow the ocean to rejuvenate and revitalize itself. We have stood by for years, frustrated and angry, while the legislative process failed to halt the procession of barges out to sea to dump their wastes. Many of our friends in the Senate and in this committee have introduced excellent legislation which we have whole-heartedly supported. We feel that the time has come to move ahead much more strenuously with the firm intent to end ocean dumping permanently.

COA calls for the end of ocean dumping. Our proposal consists of six points.

1. Introduce legislation in the State and Federal Senate and Congress calling for the end of ocean dumping. Current dumpers would be required to cut back twenty five percent in 1988, 1989, and 1990, and halt all dumping by 1991. Industrial dumping by the DuPont Company and Allied Chemical Company should cease by the end of this year.

2. Institute a Congressional Directive to the EPA requiring the agency to schedule the Phase-out procedure.

3. Require all ocean dumpers to present detailed plans outlining the procedures being done to meet the phase-out schedule.

4. Levy a \$5 million dollar fee or dumping tax on all ocean dumpers to pay the cost of better monitoring and surveillance.

5. Call on Governor Kean to use his full veto powers from the Coastal Zone Management Act's Consistency Statement to ban ocean dumping in the state of New Jersey.

6. Eliminate plastic pollution problems by the passage of strong anti-plastic legislation, such as Senator Lautenberg's Plastic Pollution Control Act (S633) and the ratification of Annex V. Reduce the production and restrict the sale of plastics.

These proposals are made with the conviction that alternatives to ocean disposal are available and that once the ocean is no longer viewed as an inexpensive garbage can, our industries will be forced to bear the responsibility for source reduction. Clean Ocean Action supports Sen. Pallone's Clean Sludge Bill (S-3086) which is an example of waste reduction legislation.

We call on this committee to move forward with this plan. We need aggressive legislation instead of "temporary" solutions that allow ocean dumpers to neglect their plans to move out of the ocean. Sewage sludge, acid waste, dredge spoils, and hospital waste do not belong in the ocean. Let's not wait for another disaster. Let's move now to give the ocean a much-deserved rest.



# THE CITY OF NEW YORK Department of Sanitation

KEVIN T. SMYLEY  
DEPUTY COMMISSIONER  
FOR LEGAL AFFAIRS

DANIEL MILLSTONE  
ENVIRONMENTAL COUNSEL  
51 Chambers Street, Suite 1113  
New York, New York 10007  
Telephone (212) 566-5632

August 14, 1987

Mr. Ray Cantor  
Office of Legislative Services  
State House Annex  
CN 068  
Trenton, New Jersey 08625

Dear Mr. Cantor,

Enclosed please find a copy of Local Law 56 of 1985 which regulates the disposal of infectious waste along with other relevant documentation.

If I could be of further assistance you may reach me at 212-566-5632.

Very truly yours,

*Jeannette Diaz*  
Jeannette Díaz

Attachments

OPERATIONS ORDER 86 -

THE NEW YORK CITY  
DEPARTMENT OF SANITATION

OPERATIONS ORDER 86 -

EFFECTIVE DATE:

SUBJECT: PROCEDURES PERTAINING TO THE HANDLING OF  
INFECTIOUS WASTE AT B.W.D. FACILITIES

AFFECTED DIRECTIVES: Operations Order 86-11. (5/1/86) is  
hereby rescinded

REFERENCE: New York City Local Law 57 regarding the  
disposal of hospital waste.

Commencing on the effective date above, the following procedures  
for handling INFECTIOUS WASTE will be strictly adhered to.

A. General

1. The Deputy Director of Waste Disposal will be responsible  
for all aspects and coordination of the infectious waste  
handling procedures.
2. Directors assigned to each division will be responsible  
for the compliance with the following procedures.
3. Officers assigned to each location will maintain  
compliance with the following procedures.

B. Glossary of Terms

C. Procedures

The following procedures are divided into two sections;  
Administrative Procedures and Operational Procedures. The  
Operational Procedures are divided into three sections;  
Incinerators, Marine Transfer Stations and Truckfills.

## Glossary of Terms

AUTOCLAVE: A process by which heat and pressure destroy bacteria.

BAGS:

RED: The color coded bag recommended to be used for infectious waste material emanating from hospitals.

ORANGE: The color coded bag recommended to be used for the disposal of all autoclaved material emanating from a hospital.

CLEAR: The color coded bag recommended to be used for all general non-infectious refuse emanating from a hospital.

BOTTOM DUMPING: A method of landfilling whereby refuse is dumped on the bottom of the active face and pushed up towards the top of the active face for compaction.

BWD: Bureau of Waste Disposal, New York City Department of Sanitation.

CONSUMER AFFAIRS: The municipal agency responsible for issuing licenses to various vendors conducting business within the municipal jurisdiction

DEC: Department of Environmental Conservation (State Level) charged with the enforcement of the Environmental Conservation Law. The DEC also issues special licenses to Private Carters who carry infectious waste.

DEP: Department of Environmental Protection (City Level) performs functions relating to air, water, noise and sewage pollution.

D.S. Department of Sanitation, New York City.

ECB: Environmental Control Board, an administrative tribunal which is part of DEP. It adjudicates sanitation and health code violations.

EEU: Environmental Enforcement Unit of the Bureau of Legal Affairs of the Department of Sanitation. Formerly in the Inspector General's Office, the EEU investigates violations of environmental laws, including cases involving hazardous and infectious waste.

EPA: Environmental Protection Agency (Federal Level) is responsible for mandating environmental regulations in cooperation with the State and Local governments.

EPO: Environmental Police Officer. Employed in the EEU.



GNYHA: The Greater New York Hospital Association is a trade organization that serves as an advisory unit to member hospitals in the City of New York.

HHC: The Health and Hospitals Corporation which has jurisdiction over all municipally operated hospitals in the City of New York.

ISOLATION WASTE: Waste emanating from the care and treatment of a patient under isolation care, i.e. one with a communicable disease, but not reverse isolation, in which a patient is isolated to protect him or her from contamination.

I.V. TUBING: Generally accepted and understood abbreviation for "Intravenous" tubing bottles and needles.

LABORATORY WASTE: Waste emanating from the testing and research labs (i.e. biological, clinical, microbiology animal) within a medical or research facility.

OBSTETRICAL WASTE: All waste emanating from the treatment of pregnancy, labor and childbirth.

OCO: Operations Control Office for the Bureau of Waste Disposal, Room 729, 125 Worth Street handles all operational issues from the field locations.

PATHOLOGICAL WASTE: All waste emanating from the treatment or analysis of organs, tissue, blood, etc. of disease patients.

RENAL DIALYSIS WASTE: Waste emanating from patients undergoing treatment for kidney disorders.

SDOH: The State Department of Health sets standards and regulates all hospitals by issuing operating permits.

SHARPS: Hypodermic needles or needles attached to I.V. tubing or syringes, scissors or any other article which can cause punctures or cuts.

SURGICAL WASTE: All waste generated during the course of surgery.

I. ADMINISTRATIVE POLICIES AND PROCEDURES:

1. The Location Supervisor shall report suspected material to the Operations Control Office immediately. If operationally feasible, the Supervisor shall keep the material exactly where it was discovered. If not feasible, the Location Supervisor shall relocate the suspect material so as to minimize disturbance to it. The suspect material shall be kept intact and as undisturbed as is operationally feasible until the arrival of an EPO. The Location Supervisor shall ensure that no bags of suspect material are opened by anyone other than an EPO or under an EPO's direct supervision.
2. The Operations Control Office fills out an Unusual Occurrence and Accident Report (DS 779) and notifies EEU of the incident. The telephone number is 566-5632.
  - 2A. The report contains the following information.
    - a. Log Number
    - b. Type of Incident
    - c. Date of Incident
    - d. Time of Incident
    - e. Zone incident occurred in
    - f. Location of Incident
    - g. Weather Conditions present on the day of incident
    - h. Equipment involved (e.g. barge, type of truck)
    - i. Injuries, if any
    - j. Damages, if any
    - k. Witness(es)
    - l. Detailed description of occurrence or accident
    - m. This report must be signed and dated by preparer and Supervisor. It must also contain the name of the individual reporting the incident.
3. The Operations Control Office notifies the BWD Deputy Director of Operations Office of the incident.
4. EEU will send an EPO to the site of the incident.
5. The Location Supervisor will direct the EPO to the site of the incident, identify the witness(es) and ensure that the Infectious Waste Field Inspection Acknowledgement Report (D.S. 577) is made available.
6. The EPO will conduct his investigation. This may include selecting and opening sealed bags and photographing the bags and their contents. He or she may isolate any evidence so that it will be available for viewing by a hospital representative.

7. The EEU will contact the BWD Deputy Director of Operations Office to report the results of their investigation. The telephone numbers are 566-6007 or 5281.
8. The BWD Deputy Director of Operations Office then contacts the designated hospital official requesting that a representative visit the location and verify the incident. The hospital has four hours from the time of the call to appear at the location of the incident. Also notified is the Director of Health & Hospitals for City hospitals at (212)566-8600 or the President of the Greater New York Hospital Association for private hospitals at (212)246-7100 to inform them of the incident.
9. The EPO from the EEU will have the hospital representative sign the Infectious Waste Field Acknowledgement Report (D.S. 577) and obtain witness(es) signature(s) in the presence of the Location Supervisor. A copy is to be given to the hospital representative.
10. The report contains the following information:
  - i. Location of incident
  - ii. Date of incident
  - iii. Name of hospital representative
  - iv. Name of hospital/institution -
  - v. List of infectious waste items observed
  - vi. Comments
  - vii. Representative's signature, the date and the time
  - viii. Location Supervisor's signature
  - ix. Witness(es) signature(s).
11. If appropriate, the EEU will serve a Notice of Violation to the designated hospital representative. In that case, the hospital's collection services and/or dumping privileges shall be immediately thereafter suspended. The Instruction Sheet accompanying the Notice of Violation states that the hospital must call Environmental Counsel before the end of the business day to qualify for a hearing at the Environmental Control Board (ECB) within 48 hours. If the hospital does not timely call Environmental Counsel the ECB hearing will be held from 12-14 working days from the date of violation, as written on the summons by the EPO. The suspension shall remain in effect until the date of the hearing.
12. The EEU will telephone the BWD Deputy Director of Operations Office to notify him or her of the decision to suspend.
13. The BWD Deputy Director of Operations office will send out a teletype under the Deputy Commissioner of Operations name suspending the hospital's collection services and/or disposal privileges and will notify the Director of the Bureau of Cleaning and Collection.

14. The BWD Deputy Director of Operations Office will notify the New York State Department of Health. The telephone number is (212)502-0829.
15. The BWD Deputy Director of Operations Office will officially notify the hospital by phone of the suspension. The hospital must inform the Department as to the name of the Private Carter they are mandated to hire and they must tell the Private Carter that they cannot dump in New York City Department of Sanitation facilities.
16. The BWD Deputy Director of Operations Office will contact the Private Carter to ensure that they understand that they cannot dump in NYC DS facilities. The caller then obtains the permit numbers of the trucks that the Private Carter intends to use to service the suspended hospital.
17. The BWD Deputy Director of Operations Office will notify the Director of the Private Carter Liaison Services office of the suspension. The telephone number is 334-8508. The Director will notify the Private Carter Association. The Private Carter Liaison Services office will also notify the Private Carter Association when the service is reinstated.
18. The BWD Deputy Director of Operations Office, under the authorization of the Director of Waste Disposal, will issue a teletype prohibiting specifically licensed Private Carter trucks servicing the suspended hospital from dumping at DS facilities.
19. After the Enviromental Control Board hearing the EEU will notify the hospital in writing of the ECB decision. A copy will be sent to the BWD Deputy Director of Operations Office which will notify the Director of BCC Operations of the length of the suspension and the reinstatement date.
20. The BWD Deputy Director of Operations Office will prepare a teletype, to be sent out under the Deputy Commissioner for Operations signature, reinstating the Hospital and the Private Carter's dumping privileges.

## II. OPERATIONAL POLICIES AND PROCEDURES:

### I. INCINERATOR:

1. As trucks arrive with the hospital waste, the scale attendant will notify the Stationary Watch Engineer. The Stationary Watch Engineer or his assigned delegate will, on occasion, spot check the loads being dumped for violations such as red bags or sharps.
2. Should a suspected violation be detected, the contaminated area of the load will be isolated. Suspect material will be crane fed onto the pad adjacent to the pit. The remainder of the refuse will be processed for incineration.
3. Set storage areas will be designated in the pit since material will most likely arrive faster than it can be burned during peak delivery periods.
4. As the waste arrives and is dumped it will be immediately fed into the furnace hopper by the bridge cranes. Either crane can feed any furnace hopper.
5.
  - A. If two cranes or an entire incinerator go down for what appears to be a sustained period of time, the hospital waste will be diverted to another incinerator location.
  - B. In the event one crane should break down, another crane or unit will be utilized.
  - C. The Location Supervisor will notify the Operations Control Office in the case of any breakdowns.
  - D. The Operations Control Office will notify the BCC Operations Office of slow dumping (in the case of a one crane operation) or diversions (in the case of an inoperable incinerator).
6. Equipment handling the infectious hospital waste will be washed down with an approved disinfectant.
7. The Crane Operators will take care to see that each bucket load of material is carefully placed in the hopper to avoid spillage.
8. If spillage occurs the personnel assigned to clean up will observe proper safety precautions such as wearing boots, gloves, face masks and goggles when deemed necessary in dealing with the clean-up.
9. The Crane Operators and Tipping Floor personnel will be alerted as to suspected violations in the hospital waste loads. If such violations are discovered, the Stationary Watch Engineer will be immediately notified and the standard procedures followed.

10. The standard procedures for suspected infectious waste are as follows:
- A. The Location Supervisor will isolate the suspect material.
  - B. The Location Operator will report the suspected material to the Operations Control Office immediately.
  - C. The Operations Control Office fills out an Unusual Occurrence and Accident Report (DS 779) and notifies the EEU. The telephone number is 566-5632. The EEU will send an EPO to the site as soon as possible.
  - D. When the EPO reports to the location, the Location Supervisor will direct him or her to the material, identify witness(es) and ensure that a Infectious Waste Field Inspection Acknowledgement Report (D.S. 577) is made available for the hospital to sign. The Location Supervisor shall make the relevant logbook entry available to the EPO.
  - E. The EEU will notify the BWD Deputy Director of Operations Office as to the results of the investigation.
  - F. The office of the Deputy Director of Operations will contact the hospital in violation and inform them that they have four hours to appear at the location for confirmation of the incident.
  - G. The EPO will give the hospital representative the opportunity to view the evidence and will ask the hospital representative to sign the Infectious Waste Field Inspection Acknowledgement Report (D.S. 577). Any witnesses to the violation shall sign the report, as well. A copy shall be offered to the hospital representative.

B. MARINE TRANSFER STATIONS:

1. If a load being dumped is suspected to contain infectious waste the Location Supervisor is to be notified.
2. The standard procedures for handling suspected infectious waste are as follows:
  - A. The Location Supervisor will isolate the suspect material.
  - B. The Location Supervisor will report the suspected material to the Operations Control Office immediately.
  - C. The Operations Control Office will fill out an Unusual Occurrence and Accident Report (DS 779) and notifies the EEU. The telephone number is 566-5632. The EEU will send an EPO to the site as soon as possible.
  - D. When the EPO reports to the location, the Location Supervisor will direct them to the material, identify witness(es) and ensure that the Infectious Waste Field Inspection Acknowledgement Report (D.S. 577) is made available for the hospital to sign.
  - E. The EEO will notify the BWD Deputy Director of Operations Office that an incident has been confirmed.
  - F. If the EPO does not come to the Marine Transfer Station location the Operations Control Office will notify the Marine Dispatcher of the incident, the barge number and the approximate location of the suspect material so that the material can be inspected at Fresh Kills.
  - G. If upon investigation the EPO in consultation with the EEU deems that a violation has been found at Fresh Kills, the EEU will telephone the Office of the BWD Deputy Director of Operations to inform it of that decision. The Office of the Bureau of Waste Disposal Deputy Director of Operations will contact the hospital and inform it that it has four hours to appear at the location to view the evidence.
  - H. If a hospital representative appears at the site, the EPO will offer the representative an opportunity to view the evidence and will ask him or her to sign the Infectious Waste Field Inspection Acknowledgement Report (D.S. 577). Any witnesses to the violation shall sign the report, as well. A copy shall be offered to the hospital representative.

D. TRUCKFILLS

1. The standard procedures for suspected infectious waste are as follows:
  - A. The Location Supervisor will isolate the suspect material.
  - B. The Location Supervisor will report the suspected material to the Operations Control Office immediately.
  - C. The Operations Control Office fills out an Unusual Occurrence and Accident Report (DS 779) and notifies the EEU. The telephone number is 566-5632. The EEU will send an EPO to the site as soon as possible.
  - D. When the EPO reports to the location, the Location Supervisor will direct him or her to the material, identify witness(es) and ensure that an Infectious Waste Field Inspection Acknowledgement Report (D.S. 577) is made available for the hospital to sign.
  - E. After the EPO conducts his or her investigation, the EEU will notify the BWD Deputy Director of Operations Office as to the result of their investigation.
  - F. The office of the BWD Deputy Director of Operations will contact the hospital in violation and inform it that it has four hours to appear at the location for confirmation of the incident.
  - G. If a hospital representative appears, the EPO will offer the representative an opportunity to view the evidence and will ask him to sign the Infectious Waste Field Inspection Acknowledgement Report (D.S. 577). Any witnesses to the violation shall sign the report, as well. A copy shall be offered to the hospital representative.

CANCELLATION: This order will remain in effect until rescinded.

ISSUING AUTHORITY: Vincent P. Whitfield.

Deputy Commissioner for Operations

DISTRIBUTION: All Managers and Supervisors



# THE COUNCIL

Int. No. 1063

December 9, 1985

Introduced by Council Member Katzman (by request of the Mayor); also Council Members—read and referred to the Committee on Environmental Protection. (Passed under a Message of Necessity from the Mayor).

## A LOCAL LAW

To amend the administrative code of The City of New York, in relation to the disposal of medical waste materials in the municipal sanitation system.

*Be it enacted by the Council as follows:*

Section 1. Subdivision a of section 755(2)-7.3 of title A of chapter thirty-one of the Administrative Code of The City of New York, as added by local law number fifty-seven of nineteen hundred eighty-five, is amended to read as follows:

a. It shall be unlawful for any person to dispose of or to cause to be disposed of any potentially infectious waste except in the manner prescribed in the public health law or any rules or regulations promulgated pursuant thereto and the New York City health code and any regulations of the city department of health. In addition it shall be unlawful for any person to dispose of or to cause to be disposed of any [laboratory waste,] isolation waste[,] or sharp [or surgical waste] within the sanitation and landfill system of the city, or to dispose of or to cause to be disposed of any laboratory waste or surgical waste in the landfills of the city.

§2. This local law shall take effect immediately.

Note: Matter in *italics* is new; matter in brackets [ ] to be omitted.

I hereby certify that the above bill was passed by the Council of The City of New York on December 9, 1985 receiving the following votes:

Affirmative 32

Negative 0

Not voting 0

DAVID N. DINKINS, City Clerk, Clerk of the Council.

14X

By Council Member Fossella and O'Donovan; also Council Members  
Abanese, Alter, Crispino, Foster, Lisa, Michaels, Pinkett and Robles

A LOCAL LAW

To amend the administrative code of the city  
of New York in relation to making unlawful  
the disposal of medical waste materials in the  
municipal sanitation and landfill system

Be it enacted by the Council as follows:

Section 1. Title A of chapter thirty-one of the administrative code of the city of  
New York is amended by adding a new section 25-273 to read as follows:

25-273 Disposal of potentially infectious waste. —a. It shall be unlawful for  
any person to dispose of or to cause to be disposed of any potentially infectious waste except  
the manner prescribed in the public health law or any rules or regulations promulgated pursuant  
thereto and the New York city health code and any regulations of the city department of health.  
In addition it shall be unlawful for any person to dispose of or to cause to be disposed of any  
laboratory waste, isolation waste, sharp or surgical waste within the sanitation and landfill  
system of the city.

b. For purposes of this section, the following terms shall have the following  
meanings:

1. Potentially infectious waste shall have a meaning as provided under the public  
health law or any rules or regulations promulgated pursuant thereto.

2. Laboratory waste means all matter that is disposable and their contents  
emanating from clinical, pathological or research laboratory areas.

3. Isolation waste means all waste emanating from the care or treatment of a  
patient on any type of isolation or precaution except reverse (protective) isolation, including  
excretions, exudates, secretions, suctionings and disposable medical supplies which have or  
into contact with these substances in isolation.

4. Sharp means any article that may cause punctures or cuts, including intravenous  
tubing or syringes with needles attached.

5. Surgical waste means all materials discarded from surgical procedures and  
includes, but is not limited to, disposable gowns, shoe covers, masks, headcovers, gloves and  
sponges.

6. Person means any individual, partnership, company, corporation, association

certification that to the best of his or her knowledge or belief such waste does not contain any material for which such disposal is unlawful.

d. In addition to any other penalties provided under other provisions of law, any person violating the provisions of this section shall be liable for a civil penalty of not less than twenty-five hundred dollars nor more than ten thousand dollars for the first violation, not less than five thousand dollars nor more than ten thousand dollars for the second violation and ten thousand dollars for the third and any subsequent violation. Civil penalties shall be recovered in a proceeding before the environmental control board. For the purposes of this subdivision each bag or container of solid waste with a capacity not larger than one cubic yard shall constitute a separate violation of this section.

e. The commissioner shall suspend the right of any person upon whom a notice of violation of this section has been served to use the city's solid waste disposal system pending a hearing on the violation. Such hearing shall be held within forty-eight hours after such suspension. Upon adjudication of liability for the violation, the commissioner shall continue such suspension for, in the case of a first occurrence, not less than one week, in the case of a second occurrence, committed within an eighteen month period, not less than three months and, in the case of a third and each subsequent occurrence, committed within an eighteen month period, not less than six months. In calculating such eighteen month period any period of suspension shall be excluded. For purposes of this subdivision any solid waste introduced into the sanitation and landfill system of the city under one certification executed pursuant to subdivision c of this section shall constitute an occurrence.

f. In addition to the department, provisions of this section shall be enforced by the department of health and the department of environmental protection.

52. This local law shall take effect ninety days after its enactment into law.

## HOSPITAL WASTE WORKSHOP

### Results and Conclusions

*Sponsored by  
Stony Brook's  
Waste Management Institute*

Dr. Robert A. Francis  
Convener

10 April 1987

Report of  
Waste Management Institute  
Marine Sciences Research Center  
State University of New York at Stony Brook

Special Report No. 78

Reference No. 87-2

Approved for Distribution

D.W. Pritchard  
D.W. Pritchard, Acting Dean  
and Director

17X

## DISCUSSION OF INFECTIOUS WASTE

Dr. William Greene

Extensive discussion of policies regarding disposal of hospital, notably infectious, waste have often made little reference to the actual microbial content of such waste nor to the potential for such micro-organisms to actually cause disease under the circumstances of exposure during disposal. Furthermore, it has generally been assumed that because the hospital is a place in which patients with disease congregate that the waste from hospitals is inherently different from and more dangerous than residential waste. The following points are relevant to these concerns:

1. Nosocomial (hospital-acquired) infections are caused by organisms that are predominantly part of the normal human flora. They cause disease by being "opportunistic", i.e. by taking advantage of abnormalities in a patient's defenses against infection. Opportunities for invasion are afforded by such uniquely nosocomial situations and devices as urinary and vascular catheters, respiratory intubation and respirator use and the presence of a surgical incision. In normal hosts they rarely cause disease. Even among hospitalized patients, on the average only 5-6% of the patients develop infections during their stay. (1)
2. Community-acquired infections, caused by organisms that obviously produce disease in normals, rarely result in hospitalization. Thus, illnesses such as respiratory viral infections (e.g. influenza), bacterial and viral causes of diarrhea (e.g. bacillary dysentery, salmonellosis) and skin infections (e.g. Group A streptococcal cellulitis, staph furuncles) are overwhelmingly more frequent in the community than in the hospital. There is also no evidence that more severe infections requiring hospitalization are caused by organisms that are more infectious, i.e. that hospitals harbor particularly dangerous microbes. Rather, increased severity usually correlates with a patient who has already compromised by age or pre-existing disease when infection developed.

These facts also hold true for blood-borne illnesses such as hepatitis and AIDS. Only a small percentage of AIDS patients are hospitalized at any one time. In addition, AIDS is only the tip of the "iceberg" of other persons in the community infected with the AIDS virus, most of whom are without symptoms but are equally (if not more) infectious. Indeed, the CDC estimates that there are 50-100 others infected with

HIV (HTLV-III/LAF) for each known AIDS patient.

More important than the above, however, is the knowledge that the method(s) by which each infection is transmitted is quite specific and is rarely reproduced in the landfill or in solid waste handling. Thus, even when organisms capable of causing disease are present in solid waste they do not do so because they are not presented to the waste worker by the appropriate route. The one potential exception to this, of course, is the possible transmission of AIDS and especially hepatitis by percutaneous injury or mucous membrane splashing by sources contaminated with such agents. It is important to note the following:

- a. All public agency recommendations regarding hospital waste call for:
  - i. the disposal of biologic liquids down sanitary sewers or if that is not possible, as infectious waste for incineration;
  - ii. the disposal of all "sharps" (potentially penetrating instruments) in impenetrable containers.
- b. In regard to AIDS transmission, the data from the CDC demonstrate that as of September, 1986:
  - i. mucous membrane splashing has yet to result in HIV transmission in more than 150 known health-care worker (HCW) exposures to HIV-positive body fluids;
  - ii. in more than 460 percutaneous exposures to such fluids, only two (0.5%) HCWs were found to have developed antibodies to HIV, of whom only one was known to be negative prior to the injury.

Further:

- iii. studies among hundreds of household members of persons with AIDS have not shown transmission of HIV by routes of contact other than sexual or needle sharing (2);
  - iv. studies among AIDS patients have not revealed an excess of persons who are HCWs or solid-waste workers and, thus, do not suggest excess risk by virtue of employment;
- c. Although formal prospective studies are lacking, there are essentially no reports of infectious

illness from communities around landfills or among waste or infectious waste workers, apart from a 1973 article describing a unique problem engendered by a "water-pulping" process at a VA hospital (3).

These facts suggest that known HIV or hepatitis contaminated instruments and or liquids are not likely to be found in the landfill; that residential waste is as or more likely to emanate from infections (including AIDS and hepatitis) that arise in the community; that should such pathogens be present in solid waste they are unlikely to transmit disease; and that, in regard to AIDS, even the presence of the virus and exposure to it by percutaneous or mucous membrane routes rarely causes infection.

3. The absence of a clearly defined risk of infectious waste for communities or waste handlers has resulted in:
  - a. regulatory agency (CDC, JCAH, EPA, NY Department of Health, NY Department of Environmental Conservation) disagreement about the definition of infectious waste (4, 5, 6);
  - b. regulatory agency disagreement about the necessary modes of disposal of such waste; and
  - c. considerable variation in hospital practices both between and within individual states (7).
4. For the present, the medical information available justifies:
  - a. a view that the microbial content of hospital waste is equal to or less than that of residential waste in regard to both the numbers of organisms present and their diversity. Comparative studies in Germany (8, 9) of hospital waste (regular nursing units, intensive care units and operating rooms) and residential waste, have generally shown hospital waste to contain only a small fraction, per kilogram, of micro-organisms when compared to residential waste.

Further, known pathogens, such as Salmonellae (causes of typhoid fever and gastroenteritis) were far more frequently found in non-hospital waste.

  - b. a minimal definition of "infectious waste" reflecting that which is agreed upon by all regulatory agencies, i.e. the lowest common denomination of such definitions. In the absence of either: i) a prior

evidence suggesting that hospital waste should be particularly infectious or ii) evidence from studies of waste or waste workers that it is unique in its infectivity, the scientific data do not support a definition of "infectious waste" that goes beyond the following four categories:

1. microbiological waste, i.e. cultures of organisms that, therefore, contain particularly large numbers of microbes in concentrated form;
2. liquid blood and blood products;
3. pathological waste, i.e. human parts and tissues;
4. sharps and contained biological liquids unable to be emptied into a sanitary sewer, e.g. pleurevacs.

- c. minimally burdensome disposal methods for both "infectious" and "non-infectious" waste. Although non-medical or non-scientific considerations of "perceived risk" may suggest otherwise, the absence of data supporting such risk must be weighed against the considerable expenditure of time, effort and money, involved in expansive interpretations of what is infectious waste and restrictive views of how it may be disposed of. It is also important to weigh the potential risks of increasing the volume of material disposed of by incineration against the "benefits" of preventing an infectious hazard that is yet to be shown to exist.

4. For the future, effort must be undertaken to:

- a. establish criteria for infectious waste that is based upon risk of infectivity;
- b. conduct studies that more reliably estimate the risk, if any, of waste for solid-waste handlers;
- c. conduct studies that more reliably estimate the risk, if any, of landfill waste for surrounding communities;
- d. educate the public, solid waste workers and those who generate hospital waste about those items considered truly infectious, the nature of the risk involved and the proper modes of disposal.



SUBJECT: DISPOSAL OF NEEDLES AND SYRINGES

DATE  
June 17th, 1986

SUPERSEDES: 11/14/84

DISTRIBUTION: 601-610-630-640-643-  
650-660-665-670-678-680

PAGE 1

OF 1

## POLICY

NEEDLES AND SYRINGES ARE TO BE DISPOSED OF AS A SINGLE UNIT, WITHOUT RECAPPING, INTO A RIGID IMPERVIOUS CONTAINER.

## PROCEDURE:

ALL TWO GALLON PLASTIC CONTAINERS ARE TO BE SECURED TO MEDICINE CARTS AND/OR MEDICATIONS ROOM WALL, ALSO ALL ISOLATION ROOM WALLS.

EIGHT (8) GALLON CONTAINERS ARE TO BE USED IN AREAS WHERE NEEDED, SUCH AS LABORATORY, PHARMACY, ONCOLOGY, ETC.

## RESPONSIBLE PERSON

## ACTION

APPROPRIATE STAFF  
USING NEEDLE AND  
SYRINGE - RN/GN/LPN,  
PHARMACIST, ETC.

1. When ready to dispose of needle and syringe, it is to be dropped into plastic container as one unit, without recapping.
2. If medicine cart is not in use, and syringe must be carried to container, needle and syringe must be carried in an emesis basin as a single unit without recapping. It is then carefully picked up and dropped into disposal container.
3. When container is full, the rotor on container lid is closed, "sealing" the used needles and syringes into rigid container.

APPROPRIATE STAFF  
WISHING TO REMOVE USED  
CONTAINER FROM UNIT,  
RN/GN/LPN

4. Housekeeping will be called to dispose of the unit. If Housekeeping is not immediately available and container is full, RN on unit may replace used container with new one. Used container will then be stored in Medication Room, until Porter is available.

HOUSEKEEPING

5. Porter will take the sealed container of used needles and syringes to incinerator to be burned.
6. All bracketed containers are to be locked.
7. Keys to locks are to be kept by the following units:
  - 3 Keys - Housekeeping
  - 2 Keys - Nursing Service
  - 1 Key - Purchasing
  - 1 Key - Each Unit's Key Ring.
8. Containers will be stored in CSR.
9. All used containers will be incinerated every 24 hours and are NOT to be stock-piled in Incinerator Room.

ISSUED BY:

*Christine David Rell/NCB*

APPROVED BY:

*Suzanne Carter*  
Suzanne Carter, Vice-President Nursing

ST. MARY HOSPITAL, HOBOKEN, N. J.

22X

New Jersey State Library

*memo*

NEW JERSEY STATE DEPARTMENT OF HEALTH

**NSD**

TO Hospital Administrators and Infection Control Nurses

DATE January 11, 1985

FROM Health Facilities Inspections

PHONE

SUBJECT Hospital Waste Disposal

It has been brought to our attention that there is considerable confusion regarding the requirements of Section 306, Pathological and Infectious Waste, of the Manual of Standards for Hospital Facilities. In particular, the required method of disposal of waste from isolation patients has generated many inquiries. It appears that many hospitals are implementing special procedures for the disposal of isolation waste unnecessarily.

In order to clarify the department's position the Division of Epidemiology and Disease Control, the Division of Health Facilities Evaluation and the Division of Local and Community Health Services, have developed the following guidelines pertaining to the Disposal of Pathological and infectious waste, more appropriately classified as "special waste."

1. Solid waste from the microbiological laboratory shall be autoclaved or incinerated. Once autoclaved this waste does not pose a significant health hazard and can be disposed in a landfill approved by the Department of Environmental Protection.
2. Liquid wastes from the microbiological laboratory shall be autoclaved prior to disposal into the laboratory sewage system. This shall refer to liquid culture media.
3. All pathology specimens shall be incinerated in the facility or shall be doubly packaged in impervious plastic heavy duty bags prior to removal from the hospital for incineration, cremation or interment.
4. Needles and syringes shall be disposed of as stipulated in Section 306.1.4.
5. Section 306.1.5.1 refers back to Section 306.1.5 and requires that all such material (i.e., solid nonrigid contaminated waste material such as blood tubing and disposable equipment and supplies) not autoclaved or incinerated within the hospital shall be doubly packaged in impervious plastic heavy duty bags prior to removal from the hospital for disposal by incineration or in a landfill approved by the Department of Environmental Protection.

Isolation waste falls into this category. It can be disposed of by incineration or in the general trash. The greatest hazard posed by waste from isolation patients is within the hospital where debilitated, immunocompromised patients are exposed to these materials as a result of mishandling. These wastes do not pose a significant health hazard once they are removed from the hospital.

If there are any questions concerning the above, please feel free to call Mr. Anthony T. Monaco at (609) 984-1378.

23X

*Indira D. White*



State of New Jersey

DEPARTMENT OF HEALTH  
HEALTH FACILITIES EVALUATION  
CN 367, TRENTON, N.J. 08625

J. RICHARD GOLDSTEIN, M.D.  
COMMISSIONER

TO: Hospital Administrators  
FROM: Health Facilities Evaluation  
SUBJECT: Hospital Waste Disposal

July 18, 1985

Recent hospital waste disposal problems in New York and at the HMDC Landfill in New Jersey brought to our attention the need to re-emphasize that State hospital waste disposal laws, rules, regulations and guidelines must be adhered to.

Landfills will not accept needles and syringes that are intact or pathological waste. Additionally, they will not accept microbiological waste that has not been autoclaved. All other waste must be double bagged.

Red bags labeled "infectious" should be used only when in your opinion the material therein is of a nature that if the bags are broken someone could become infected by the contents via airborne contamination. If that is your concern, then that type of material must be incinerated, not landfilled. Please understand, we are aware that any garbage on a landfill, if ingested, could produce illness. Also, improper handling and poor hand and clothing washing practices could possibly result in illness, regardless of the source of the disposed materials.

Because of the concerns noted herein and to assure continued landfill acceptance of your waste, you are respectfully requested to develop and implement policies and procedures designed to control your various waste streams. Please submit your policies to Health Facilities Inspection Services, CN 367, Trenton, New Jersey 08625 by August 15, 1985.

Frederick F. Hebeler, Director

Attachment: Hospital Waste Disposal

24X





