

5 2349

LEGISLATIVE HISTORY CHECKLIST

NJSA: 13:1E-48.1 (Medical waste-- establish tracking system)

LAWS OF: 1989 **CHAPTER:** 34

BILL NO: S2343/A2853

SPONSOR(S): LoBiondo and others

Date Introduced: March 28, 1988

Committee: **Assembly:** Environmental Quality; Solid Waste Management

Senate: Revenue, Finance and Appropriations; Energy and Environment

Amended during passage: Yes ACS/SCS (first reprint)

Date of Passage: **Assembly:** January 30, 1989

Senate: December 24, 1988

Date of Approval: March 6, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes 9-26-88 and 1-19-89

Senate Yes 8-4-88 and 10-20-88 and 6-16-88

Fiscal Note: Yes

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

See:

Wolf, Marsha and Goldshore, Lewis. A new statute regulating medical waste, 123 NJLJ 766 (3-30-89).

(OVER)

See also: "Governor approves waste bill," 3-7-89 Asbury Park Press.
"Kean signs measure to track waste," 3-7-89 Philadelphia Inquirer.
"Assembly approves system to track waste," 1-27-89 Asbury Park Press.
"Medical-waste bill signed by Kean as invitation to Shore," 3-7-89 Home news.
"Medical waste-- Kean enacts monitoring system for disposal," 3-7-89 Star Ledger.

974.90 New Jersey. Legislature. Assembly. Select Committee
B365 on Ocean and Beach Protection
1989 Public meeting, held 2-14-89, Trenton, 1989.

RDV

P.L. 1989, CHAPTER 34, *approved March 6, 1989*
Assembly Committee Substitute for
Assembly Committee Substitute (*First Reprint*) for
Senate Committee Substitute (*First Reprint*) for
1988 Senate No. 2343 and Assembly Committee Substitute for
1988 Assembly No. 2853 (*First Reprint*)

1 **AN ACT** concerning regulated medical waste, amending P.L.1970,
c.39, P.L.1970, c.40, P.L.1971, c.461 and P.L.1983, c.392,
3 supplementing Title 13 of the Revised Statutes, and making
appropriations.

5

BE IT ENACTED by the Senate and General Assembly of the
7 *State of New Jersey*:

9 1. (New section) Sections 1 through 25 of this act shall be
known, and may be cited, as the "Comprehensive Regulated
Medical Waste Management Act."

11 2. (New section) The Legislature finds that various human and
animal health care centers and clinics, hospitals, laboratories,
13 and other facilities generate substantial volumes of medical
waste that must be transported and disposed in a sanitary and
15 environmentally sound manner; that this waste poses both a
potential threat to the health of those persons who handle,
17 transport, dispose, or otherwise come into contact with it and to
the public health; that, in addition to the actual and perceived
19 risks associated with the management of medical waste, there
are important aesthetic concerns that must be addressed; that
21 the present regulatory scheme for medical waste is confusing and
inadequate, and the enforcement thereof has been lacking and the
23 penalties assessed for violations insufficient; and that the
citizens of the State generally lack confidence that medical
25 waste in the State is being managed in a proper and safe manner.

27 The Legislature therefore declares that it is appropriate to
establish a comprehensive management system that provides for

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 the proper and safe tracking, identification, packaging, storage,
control, monitoring, handling, collection, and disposal of
3 regulated medical waste; that monitoring of the regulated
medical waste stream is best accomplished through the creation
5 of a manifest tracking system for regulated medical waste; and
that it is appropriate to provide for strict enforcement of the law
7 concerning regulated medical waste and to establish substantial
civil and criminal penalties for violations thereof.

9 3. (New section) As used in sections 1 through 25 of this act:

"Board" means the Board of Public Utilities.

11 "Collection" means the activity related to pick-up and
transportation of regulated medical waste from a generator, or
13 from an intermediate location, to a facility, or to a site outside
the State, for disposal.

15 "Commissioners" means the Commissioner of Environmental
Protection and the Commissioner of Health.

17 "Departments" means the Department of Environmental
Protection and the Department of Health.

19 "Dispose" or "disposal" means the storage, treatment,
utilization, processing, resource recovery of, or the discharge,
21 deposit, injection, dumping, spilling, leaking, or placing of any
regulated medical waste into or on any land or water so that the
23 regulated medical waste or any constituent thereof may enter the
environment or be emitted into the air or discharged into any
25 waters, including groundwaters.

"Facility" means a solid waste facility as defined in section 3
27 of P.L.1970, c.39 (C.13:1E-3); or any other incinerator or
commercial or noncommercial regulated medical waste disposal
29 facility in this State that accepts regulated medical waste for
disposal.

31 "Federal Act" means the "Medical Waste Tracking Act of
1988" (42 U.S.C. 6903 et seq.), or any rule or regulation adopted
33 pursuant thereto.

"Generator" means an ambulatory surgical or care facility,
35 community health center, medical doctor's office, dentist's
office, podiatrists offices, home health care agencies, health care
37 facility, hospital, medical clinic, morgue, nursing home, urgent
care center, veterinary office or clinic, animal, biological,
39 clinical, medical, microbiological, or pathological diagnostic or

1 research laboratory, any of which generates regulated medical
waste, or any other facility identified by the departments that
3 generates regulated medical waste. "Generator" shall not include
individual households utilizing home self-care.

5 "Regulated medical waste" means blood vials; cultures and
stocks of infectious agents and associated biologicals, including
7 cultures from medical and pathological laboratories, cultures and
stocks of infectious agents from research and industrial
9 laboratories, wastes from the production of biologicals, discarded
live and attenuated vaccines, and culture dishes and devices used
11 to transfer, inoculate, and mix cultures; pathological wastes,
including tissues, organs, and body parts that are removed during
13 surgery or autopsy; waste human blood and products of blood,
including serum, plasma, and other blood components; sharps that
15 have been used in patient care or in medical, research, or
industrial laboratories engaged in medical research, testing, or
17 analysis of diseases affecting the human body, including
hypodermic needles, syringes, pasteur pipettes, broken glass, and
19 scalpel blades; contaminated animal carcasses, body parts, and
bedding of animals that were exposed to infectious agents during
21 research, production of biologicals, or testing of pharmaceuticals;
any other substance or material related to the transmission of
23 disease as may be deemed appropriate by the departments; and
any other substance or material as may be required to be
25 regulated by, or permitted to be exempted from, the Federal Act.
The departments may adopt, by rule or regulation and pursuant to
27 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
et seq.), a more specific definition of regulated medical waste
29 upon the expiration of the demonstration program established
under the Federal Act.

31 "Noncommercial facility" means a facility or on-site
generator, as the case may be, which accepts regulated medical
33 waste from other generators for on-site disposal for a cost-based
fee not in excess of the costs actually incurred by the facility or
35 on-site generator for the treatment or disposal of the regulated
medical waste.

37 "Transporter" means a person engaged in the collection or
transportation of regulated medical waste.

39 4. (New section) a. The Department of Environmental

1 Protection, in consultation with the Department of Health, shall
2 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
3 c.410 (C.52:14B-1 et seq.), a regulated medical waste
4 management system that shall provide for the proper and safe
5 manifesting, tracking, identification, packaging, storage, control,
6 monitoring, handling, collection, and disposal of regulated
7 medical waste. The regulated medical waste management system
8 shall include a manifest system that includes, but need not be
9 limited to, a requirement that every shipment of regulated
10 medical waste released by any generator to a transporter for
11 delivery to a facility for disposal, be accompanied by a manifest
12 as prescribed by the Department of Environmental Protection and
13 as may be required by the Federal Act.

14 b. The departments may, by rule or regulation, adopt an
15 exemption from all or a portion of the regulated medical waste
16 management system requirements of this section for regulated
17 medical waste, or portions of regulated medical waste, that have
18 been properly treated by the generator pursuant to subsection b.
19 of section 6 of this act.

20 5. (New section) a. Prior to the adoption of any rules or
21 regulations pursuant to section 4 of this act, or the
22 implementation of the comprehensive State regulated medical
23 waste management plan prepared by the departments pursuant to
24 section 13 of this act, or the implementation of any other
25 provisions of this act, the manifesting, tracking, identification,
26 packaging, storage, control, monitoring, handling, collection,
27 management and disposal of regulated medical waste in this State
28 shall be governed in all respects by the rules and regulations
29 heretofore adopted by the Department of Environmental
30 Protection pursuant to the provisions of the "Solid Waste
31 Management Act," P.L.1970. c.39 (C.13:1E-1 et seq.). All rules
32 and regulations heretofore adopted by the department relating to
33 regulated medical waste shall continue in full force and effect
34 and be enforceable by the department, subject to its power as
35 provided by this act to amend or repeal the same, except that on
36 and after the effective date of this act all generators, without
37 regard to the quantity of regulated medical waste generated per
38 month, shall be subject to the manifesting requirements of these
39 rules and regulations.

1 b. Within 30 days of the adoption by the United States
2 Environmental Protection Agency of rules and regulations to
3 implement the Federal Act, the Department of Environmental
4 Protection, in consultation with the Department of Health, shall
5 adopt, without regard to the provisions of the "Administrative
6 Procedure Act," rules and regulations identical to, and as
7 required by, the rules and regulations adopted by the United
8 States Environmental Protection Agency under the Federal Act.
9 The rules and regulations adopted by the departments pursuant to
10 this subsection shall require all generators, without regard to the
11 quantity of regulated medical waste generated per month, to
12 comply with the regulated medical waste manifesting
13 requirements included in these rules and regulations.

14 6. (New section) a. The regulated medical waste management
15 system adopted by the departments pursuant to subsection a. of
16 section 4 of this act shall require all regulated medical waste to
17 be:

18 (1) securely stored, packaged for safe handling, and
19 distinctively identified by a generator as regulated medical waste
20 and with the name and address of the generator on the outside of
21 the package in a manner approved by the departments; and

22 (2) securely stored and transported by a transporter separately
23 from all other solid waste, and not stored by a generator,
24 transporter, or any other person longer than a period prescribed
25 by the departments; and

26 (3) incinerated in a facility approved therefor, or otherwise
27 destroyed or disposed in a manner approved by law or the
28 departments, except that no regulated medical waste may be
29 disposed in a sanitary landfill facility unless it has been properly
30 treated in accordance with subsection b. of this section and so
31 identified.

32 b. The Department of Health shall prescribe which types of
33 regulated medical waste shall be treated by a generator and, in
34 the case of regulated medical waste autoclaved, and wherever
35 else appropriate, the proper time and temperature exposures,
36 volume, load, and density configurations, packaging, and labeling
37 to be utilized.

38 c. A generator shall certify to the transporter for each
39 collection of regulated medical waste that the generator has

1 complied with paragraphs (1) and (2) of subsection a. and with all
2 requirements prescribed pursuant to subsection b. of this section.

3 No transporter may collect regulated medical waste from a
4 generator unless the generator has supplied this certification. A
5 facility operator may require a transporter to produce all such
6 pertinent certifications as a condition of accepting regulated
7 medical waste for disposal.

8 d. A transporter shall certify to the Department of
9 Environmental Protection that the transporter will comply with
10 the provisions of this act, and any rule or regulation adopted
11 pursuant thereto, and shall disclose to the department the number
12 and types of vehicles utilized by that transporter for the
13 collection of regulated medical waste and the equipment or
14 methods utilized to ensure secure segregation of regulated
15 medical waste.

16 7. (New section) Every generator shall register with the
17 Department of Environmental Protection on a form prescribed by
18 the department, and pay an annual fee therefor in an amount set
19 by the department pursuant to a rule or regulation adopted in
20 accordance with the "Administrative Procedure Act." The
21 department shall set annual fees in accordance with a sliding
22 scale based upon the volume of the regulated medical waste
23 produced by the generator. The generator shall indicate on the
24 registration form the name of every transporter retained by the
25 generator to collect the generator's regulated medical waste.

26 8. (New section) a. No person may transport regulated medical
27 waste unless the person has:

28 (1) satisfied all requirements prescribed by the Department of
29 Environmental Protection, and filed a registration statement and
30 obtained approval thereof from the department on a form
31 provided, and containing all information requested by the
32 department;

33 (2) paid an annual registration fee in an amount set by the
34 Department of Environmental Protection pursuant to a rule or
35 regulation adopted in accordance with the "Administrative
36 Procedure Act;"

37 (3) received written instruction from the departments on the
38 proper and safe tracking, identification, packaging, storage,
39 control, monitoring, handling, collection, and disposal of

1 regulated medical waste;

2 (4) obtained a registration statement required by section 5 of
3 P.L.1970, c.39 (C.13:1E-5);

4 (5) obtained a certificate of public convenience and necessity
5 required by section 7 of P.L.1970, c.40 (C.48:13A-6);

6 (6) complied with the requirements of P.L.1983, c.392
7 (C.13:1E-126 et seq.); and

8 (7) paid an annual fee to, and in an amount set by, the Board of
9 Public Utilities pursuant to section 9 of this act.

10 b. The provisions of subsection a. of this section shall not
11 apply to a generator who generates less than three cubic feet of
12 regulated medical waste per month and who transports that
13 regulated medical waste to another generator for storage or
14 disposal.

15 9. (New section) Every transporter shall submit an application
16 for a certificate of public convenience and necessity to the Board
17 of Public Utilities on a form prescribed by the board, and pay an
18 initial and annual renewal fee in an amount set by the board as
19 may be necessary to cover the costs of reviewing the
20 qualifications of applicants, including background investigations,
21 and the costs of compliance monitoring and administration.

22 10. (New section) No person, including generators, may accept
23 regulated medical waste for disposal within the State or for
24 transfer to an in-state or out-of-state disposal site except upon
25 authorization of the Department of Environmental Protection and
26 payment of an annual registration fee in an amount set by the
27 Department of Environmental Protection pursuant to a rule or
28 regulation adopted in accordance with the "Administrative
29 Procedure Act."

30 11. (New section) The departments shall provide at least
31 written instruction on the proper and safe tracking,
32 identification, packaging, storage, control, monitoring, handling,
33 collection, and disposal of regulated medical waste to every
34 transporter, facility or organization that may come into contact
35 with regulated medical waste. Every transporter, facility and
36 organization shall disseminate such information to all employees.
37 The departments shall also jointly and regularly conduct a course
38 thereon, which all supervisory personnel of a transporter, facility
39 or organization shall be required to attend.

1 12. (New section) a. The Department of Environmental
2 Protection, in conjunction with the Board of Public Utilities, shall
3 adopt appropriate rules or regulations or issue administrative
4 orders providing for the interdistrict or intradistrict flow of
5 regulated medical waste. The rules, regulations, or administrative
6 orders shall establish the manner in which the department and the
7 board jointly will direct the flow of regulated medical waste in
8 this State pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.),
9 P.L.1970, c.40 (C.48:13A-1 et seq.) and the provisions of this act,
10 and determine where regulated medical waste may be disposed.

11 b. The Board of Public Utilities shall have jurisdiction over
12 rates or charges for the disposal of regulated medical waste
13 received by any commercial incinerator or commercial facility in
14 this State that accepts regulated medical waste for disposal. The
15 department, in conjunction with the board, may require any solid
16 waste facility to accept for disposal regulated medical waste
17 prepared for that purpose in accordance with the provisions of
18 this act, and any rule or regulation adopted pursuant thereto, on
19 the same terms and under the same conditions as ordinary solid
20 waste.

21 c. The Board of Public Utilities shall not have jurisdiction over
22 rates or charges for the disposal of regulated medical waste
23 imposed by any noncommercial facility in this State that accepts
24 regulated medical waste for disposal, without regard to whether
25 the regulated medical waste was generated onsite or otherwise.

26 d. The Commissioner of Health shall recommend to the
27 Hospital Rate Setting Commission adjustments to the
28 reimbursement rates for affected generators for activities that
29 are required under this act, but that are not currently reimbursed
30 under the rate setting system established by P.L.1978, c.83
31 (C.26:2H-4.1). The Division of Medical Assistance and Health
32 Services shall recommend to the Commissioner of Human
33 Services adjustments to the reimbursement rates under Medicaid
34 for affected generators for activities that are required under this
35 act, but that are not currently reimbursed under the Medicaid
36 rate setting system.

37 13. (New section) a. The departments shall study the issue of
38 regulated medical waste in the State and prepare a
39 comprehensive State regulated medical waste management plan

1 addressing the immediate, interim, and long-term needs of the
State with respect to the disposal of regulated medical waste in a
3 manner that will protect the public health and the environment.
The departments, within one year of the effective date of this
5 act, shall transmit to the Governor and the Legislature the
comprehensive State regulated medical waste management plan.

7 b. The comprehensive State regulated medical waste
management plan shall include:

9 (1) an inventory of the number and types of generators of
regulated medical waste within the State, and of the composition
11 and quantities of regulated medical waste generated thereby,
together with a recommendation with respect to the advisability,
13 practicability and feasibility of exempting certain small quantity
generators from the manifest requirements imposed by this act;

15 (2) a projection of the number and types of generators of
regulated medical waste within the State for the next 30 years
17 following enactment of this act, and the composition and
quantities of regulated medical waste to be generated thereby;

19 (3) an evaluation of the impact of out-of-state generators
upon the present and future regulated medical waste disposal
21 capacity within the State;

23 (4) an evaluation, to be undertaken in conjunction with the
Board of Public Utilities, of the status of the regulated medical
waste collection and disposal industries, and whether they are of
25 sufficient size and competitiveness to meet the needs of the
State, and, if not, recommendations of ways to increase the size
27 and competitiveness thereof;

29 (5) an inventory and appraisal, including the identity, location,
and life expectancy, of all existing and approved incineration or
31 non-incineration disposal capacity which is anticipated to be
available to each county in this State for its regulated medical
waste disposal needs, including all commercial and
33 noncommercial regulated medical waste disposal facilities, and
solid waste facilities within the State and in nearby states
35 permitted to accept regulated medical waste for disposal;

37 (6) an updated projection of the anticipated regulated medical
waste disposal capacity shortfall in each county in this State in
the next 5 years from the date of enactment of this act;

39 (7) a recommendation of the regulated medical waste disposal

1 strategy to be applied in the State, which strategy shall include
the maximum practicable use of existing and approved
3 incineration capacity for regulated medical waste, particularly
pathology specimens, resource recovery procedures, recycling,
5 and consideration of the establishment of regional regulated
medical waste disposal facilities;

7 (8) recommendations of any statutory and regulatory changes
deemed necessary to implement the comprehensive State
9 regulated medical waste management plan and assure utilization
of the most sanitary, efficient, and economical methods for the
11 tracking, identification, packaging, storage, control, monitoring,
handling, collection, and disposal of regulated medical waste; and

13 (9) an evaluation of the environmental and public health
impacts of all reasonably available regulated medical waste
15 treatment and disposal technologies, and a recommendation
concerning the extent to which non-incineration technologies
17 may be utilized as an alternative to incineration technologies.

14. (New section) a. Every existing incinerator or facility in
19 operation as of the effective date of this act that accepts
regulated medical waste for disposal shall be incorporated within
21 the relevant district solid waste management plan required
pursuant to the provisions of the "Solid Waste Management Act,"
23 P.L.1970, c.39 (C.13:1E-1 et seq.), without regard to the
provisions of sections 11, 14 and 15 of P.L.1975, c.326
25 (C.13:1E-20, 13:1E-23 and 13:1E-24).

b. No proposed new commercial regulated medical waste
27 disposal facility shall be included within a district solid waste
management plan prior to the submission to the Governor and the
29 Legislature of the comprehensive State regulated medical waste
management plan prepared by the departments pursuant to
31 section 13 of this act.

c. Any county may, consistent with the provisions of
33 subsections a. and b. of this section and pursuant to the provisions
of sections 11, 14 and 15 of P.L.1975, c.326 (C.13:1E-20,
35 13:1E-23 and 13:1E-24), prepare and adopt an amendment to the
district solid waste management plan to provide for the proper
37 and safe disposal of regulated medical waste generated within the
district prior to the submission to the Governor and the
39 Legislature of the comprehensive State regulated medical waste

1 management plan prepared by the departments pursuant to
section 13 of this act.

3 d. Prior to submission to the Governor and the Legislature of
the comprehensive State regulated medical waste management
5 plan prepared by the departments pursuant to section 13 of this
act, the Department of Environmental Protection shall not
7 consider any application for, or approve any registration
statement or engineering design application required by section 5
9 of P.L.1970, c.39 (C.13:1E-5) for, a proposed new commercial
regulated medical waste disposal facility.

11 e. Prior to submission to the Governor and the Legislature of
the comprehensive State regulated medical waste management
13 plan prepared by the departments pursuant to section 13 of this
act, the provisions of any other law, ordinance, resolution, rule or
15 regulation to the contrary notwithstanding, no State department,
division, commission, authority, council, agency, board, or any
17 other political subdivision of the State, or any county or
municipality, shall consider any application for, or grant any
19 approval, certificate, license, consent, permit or other
authorization for, a proposed new commercial regulated medical
21 waste disposal facility.

f. Nothing in this section shall prohibit the granting of any
23 State, county or municipal approval, certificate, license, consent,
permit or other authorization for any proposed noncommercial
25 incinerator or other noncommercial facility in this State that
accepts regulated medical waste for disposal.

27 15. (New section) a. Upon the submission to the Governor and
the Legislature of the comprehensive State regulated medical
29 waste management plan prepared by the departments pursuant to
section 13 of this act, the Department of Environmental
31 Protection shall:

(1) transmit, by certified mail, a written determination of
33 need to the governing body of each county in this State in which
the department has determined that there exists or impends an
35 anticipated regulated medical waste disposal capacity shortfall;
and

37 (2) issue, in conjunction with the Board of Public Utilities,
appropriate administrative orders providing for the interdistrict
39 or intradistrict flow of regulated medical waste. The

1 administrative orders shall direct the flow of regulated medical
waste generated within each county in this State to designated
3 commercial regulated medical waste disposal facilities and,
subject to the prior approval of the owner or operator thereof, to
5 designated noncommercial facilities for disposal.

b. In the event that appropriate rules and regulations to
7 implement the Federal Act have not been adopted by the United
States Environmental Protection Agency prior to the submission
9 to the Governor and the Legislature of the comprehensive State
regulated medical waste management plan, the departments may
-11 adopt, by rule or regulation, regulated medical waste
management requirements to provide for the proper and safe
13 segregation, identification, packaging, storage, labeling, control,
monitoring, handling, collection, and disposal of regulated
15 medical waste consistent with those set forth in this act.

16. (New section) a. Within 12 months of the receipt of a
17 written determination of need and notification of a regulated
medical waste disposal capacity shortfall pursuant to section 15
19 of this act, the governing body of the affected county shall
provide for the regulated medical waste disposal requirements of
21 the county as determined by the department.

b. A county may provide for its regulated medical waste
23 disposal requirements in accordance with any of the following
arrangements:

25 (1) the development of one or more new commercial regulated
medical waste disposal facilities, which facilities may utilize
27 incineration or non-incineration technologies, within the county;

(2) the development of one or more new noncommercial
29 regulated medical waste disposal facilities within the county;

(3) the more efficient utilization of existing operational
31 incinerators or facilities, which incinerators and facilities accept
regulated medical waste for disposal and are located within the
33 county; or

(4) the negotiation of an interdistrict agreement providing for
35 the disposal of regulated medical waste generated within the
county at an out-of-district incinerator, facility or proposed new
37 commercial regulated medical waste disposal facility, as the case
may be.

39 c. In the event that a county has negotiated an interdistrict

1 agreement pursuant to subsection b. of this section, the governing
body of the county that is the designated recipient of
3 out-of-district regulated medical waste shall transmit to the
department, by certified mail, a copy of the negotiated or
5 proposed interdistrict agreement and any other agreements
therefor, including evidence of the intent of the parties to adopt
7 the agreement, and the terms and conditions thereof.

d. Each affected county shall prepare and adopt an amendment
9 to the district solid waste management plan required pursuant to
the provisions of the "Solid Waste Management Act," P L.1970,
11 c.39 (C.13:1E-1 et seq.) to incorporate the regulated medical
waste disposal arrangement selected pursuant to subsection b. of
13 this section.

17. (New section) a. On or after the first day of the
15 twenty-fifth month following the effective date of this act, the
department shall make a written determination as to whether
17 each county required to provide for its regulated medical waste
disposal requirements has selected and implemented an
19 appropriate disposal arrangement. In the event that a county has
failed to provide for its regulated medical waste disposal
21 requirements pursuant to section 16 of this act, the commissioner
shall certify the failure of that county.

23 b. In the event that the department determines that a county
has failed to fulfill its regulated medical waste disposal
25 responsibilities, as certified by the commissioner pursuant to
subsection a. of this section, the department shall hold a public
27 hearing thereon within 30 days of making the determination. At
the public hearing, the relevant county shall have the burden to
29 show that the county has taken timely and significant action
toward providing for its regulated medical waste disposal
31 requirements and that the determination of the department is
unwarranted. Within 45 days of the conclusion of the hearing, the
33 department shall make a final determination, which action shall
be considered to be final agency action thereon for the purposes
35 of the "Administrative Procedure Act," P.L.1968, c.410
(C.52:14B-1 et seq.), and shall be subject only to judicial review
37 as provided in the Rules of Court.

c. In the event that the department makes a final
39 determination after the public hearing that a county has failed to

1 fulfill its regulated medical waste disposal responsibilities, the
department shall have the power to designate and develop in that
3 county one or more appropriate regulated medical waste disposal
facilities, which facilities may utilize incineration or
5 non-incineration technologies, to be utilized by the county or
several counties on a regional basis.

7 18. (New section) a. Any county within which a solid waste
facility is located pursuant to an adopted and approved district
9 solid waste management plan, which facility is a designated
recipient of regulated medical waste pursuant to an interdistrict
11 or intradistrict waste flow order issued by the Board of Public
Utilities, in conjunction with the Department of Environmental
13 Protection, may be entitled to an annual economic benefit in an
amount established by agreement with the owner or operator of
15 the solid waste facility. The governing body of the relevant
county may negotiate with the owner or operator of the solid
17 waste facility for the payment of an annual economic benefit.

b. If the parties reach an agreement on the amount of an
19 annual economic benefit, the owner or operator of the solid waste
facility shall petition the board for an adjustment in its disposal
21 tariff. The petition shall be accompanied by a copy of the
agreement which reflects the proposed annual payments and shall
23 be filed with the board prior to its implementation. The board,
within 60 days of the receipt of the petition, shall issue an
25 appropriate order that these payments shall be paid by the users
of the facility as an automatic surcharge on any tariff filed with,
27 and recorded by, the board for the regulated medical waste
disposal operations of the facility. The surcharge shall be
29 calculated and itemized in all appropriate tariffs on a per ton
basis. In the event that any regulated medical waste is measured,
31 upon acceptance for disposal, by other than tons, the surcharge
shall be calculated and itemized by using the equivalents thereof
33 as shall be determined by the board.

c. In issuing any order required by this section, the Board of
35 Public Utilities shall be exempt from the provisions of
R.S.48:2-21.

37 19. (New section) The departments shall seek the cooperation
of their counterparts in the states of New York and Pennsylvania
39 in developing regional regulated medical waste tracking,

1 identification, packaging, storage, control, monitoring, handling,
2 collection, and disposal procedures consistent with those set forth
3 in this act. The departments shall prepare, and transmit annually
4 to the Governor and the Legislature, a report summarizing these
5 discussions, including recommendations for appropriate executive
6 and legislative action.

7 20. (New section) a. This act, and any rule or regulation
8 adopted pursuant thereto, shall be enforced by the departments
9 and by every local board of health, or county health department,
10 as the case may be.

11 The departments and the local board of health, or the county
12 health department, as the case may be, shall have the right to
13 enter the premises of a generator, transporter, or facility at any
14 time in order to determine compliance with this act.

15 The municipal attorney or an attorney retained by a
16 municipality in which a violation of this act is alleged to have
17 occurred shall act as counsel to a local board of health.

18 The county counsel or an attorney retained by a county in
19 which a violation of this act is alleged to have occurred shall act
20 as counsel to the county health department.

21 All enforcement activities undertaken by county health
22 departments pursuant to this subsection shall conform to all
23 applicable performance and administrative standards adopted
24 pursuant to section 10 of the "County Environmental Health
25 Act," P.L.1977, c.443 (C.26:3A2-28).

26 b. Whenever the Commissioner of Environmental Protection or
27 the Commissioner of Health finds that a person has violated this
28 act, or any rule or regulation adopted pursuant thereto, that
29 commissioner shall:

30 (1) issue an order requiring the person found to be in violation
31 to comply in accordance with subsection c. of this section;

32 (2) bring a civil action in accordance with subsection d. of this
33 section;

34 (3) levy a civil administrative penalty in accordance with
35 subsection e. of this section;

36 (4) bring an action for a civil penalty in accordance with
37 subsection f. of this section; or

38 (5) petition the Attorney General to bring a criminal action in
39 accordance with subsections g. through l. of this section.

1 Pursuit of any of the remedies specified under this section shall
not preclude the seeking of any other remedy specified.

3 c. Whenever the Commissioner of Environmental Protection or
the Commissioner of Health finds that a person has violated this
5 act, or any rule or regulation adopted pursuant thereto, that
commissioner may issue an order specifying the provision or
7 provisions of this act, or the rule or regulation adopted pursuant
thereto, of which the person is in violation, citing the action that
9 constituted the violation, ordering abatement of the violation,
and giving notice to the person of the person's right to a hearing
11 on the matters contained in the order. The ordered party shall
have 20 days from receipt of the order within which to deliver to
13 the commissioner a written request for a hearing. After the
hearing and upon finding that a violation has occurred, the
15 commissioner may issue a final order. If no hearing is requested,
the order shall become final after the expiration of the 20-day
17 period. A request for hearing shall not automatically stay the
effect of the order.

19 d. The Commissioner of Environmental Protection, the
Commissioner of Health, a local board of health, or a county
21 health department may institute an action or proceeding in the
Superior Court for injunctive and other relief, including the
23 appointment of a receiver for any violation of this act, or of any
rule or regulation adopted pursuant thereto, and the court may
25 proceed in the action in a summary manner. In any such
proceeding the court may grant temporary or interlocutory relief.

27 Such relief may include, singly or in combination:

(1) a temporary or permanent injunction;
29 (2) assessment of the violator for the costs of any
investigation, inspection, or monitoring survey that led to the
31 establishment of the violation, and for the reasonable costs of
preparing and litigating the case under this subsection;

33 (3) assessment of the violator for any cost incurred by the
State in removing, correcting, or terminating the adverse effects
35 upon environmental quality or public health resulting from any
violation of this act, or any rule or regulation adopted pursuant
37 thereto, for which the action under this subsection may have been
brought;

39 (4) assessment against the violator of compensatory damages

1 for any loss or destruction of wildlife, fish or aquatic life, and for
any other actual damages caused by any violation of this act, or
3 any rule or regulation adopted pursuant thereto, for which the
action under this subsection may have been brought.

5 Assessments under this subsection shall be paid to the State
Treasurer, or to the local board of health, or to the county health
7 department, as the case may be, except that compensatory
damages may be paid by specific order of the court to any
9 persons who have been aggrieved by the violation.

11 If a proceeding is instituted by a local board of health or
county health department, notice thereof shall be served upon the
commissioners in the same manner as if the commissioners were
13 named parties to the action or proceeding. Either of the
departments may intervene as a matter of right in any proceeding
15 brought by a local board of health or county health department.

e. Either of the commissioners, as the case may be, may assess
17 a civil administrative penalty of not more than \$50,000 for each
violation. Each day that a violation continues shall constitute an
19 additional, separate, and distinct offense. A commissioner may
not assess a civil administrative penalty in excess of \$25,000 for
21 a single violation, or in excess of \$2,500 for each day during
which a violation continues, until the departments have
23 respectively adopted, pursuant to the "Administrative Procedure
Act," P.L.1968, c.410 (C.52:14B-1 et seq.), regulations requiring
25 the appropriate commissioner, in assessing a civil administrative
penalty, to consider the operational history of the violator, the
27 severity of the violation, the measures taken to mitigate or
prevent further violations, and whether the penalty will maintain
29 an appropriate deterrent. No assessment may be levied pursuant
to this section until after the violator has been notified by
31 certified mail or personal service. The notice shall include a
reference to the section of the statute, rule, regulation, or order
33 violated, a concise statement of the facts alleged to constitute a
violation, a statement of the amount of the civil administrative
35 penalties to be imposed, and a statement of the party's right to a
hearing. The ordered party shall have 20 calendar days from
37 receipt of the notice within which to deliver to the appropriate
commissioner a written request for a hearing. After the hearing
39 and upon finding that a violation has occurred, that commissioner

1 may issue a final order after assessing the amount of the fine
specified in the notice. If no hearing is requested, the notice shall
3 become a final order after the expiration of the 20-day period.
Payment of the assessment is due when a final order is issued or
5 the notice becomes a final order. The authority to levy a civil
administrative penalty is in addition to all other enforcement
7 provisions in this act, and the payment of any assessment shall
not be deemed to affect the availability of any other
9 enforcement provisions in connection with the violation for which
the assessment is levied. Each department may compromise any
11 civil administrative penalty assessed under this section in an
amount the department determines appropriate.

13 f. A person who violates this act, or any rule or regulation
adopted pursuant thereto, shall be liable for a penalty of not
15 more than \$50,000 per day, to be collected in a civil action
commenced by the Commissioner of Environmental Protection,
17 the Commissioner of Health, a local board of health, or a county
health department.

19 A person who violates an administrative order issued pursuant
to subsection c. of this section, or a court order issued pursuant
21 to subsection d. of this section, or who fails to pay an
administrative assessment in full pursuant to subsection e. of this
23 section is subject upon order of a court to a civil penalty not to
exceed \$100,000 per day of each violation.

25 Of the penalty imposed pursuant to this subsection, 10% or
\$250, whichever is greater, shall be paid to the appropriate
27 department from the General Fund if the Attorney General
determines that a person is entitled to a reward pursuant to
29 section 24 of this act.

Any penalty imposed pursuant to this subsection may be
31 collected, with costs, in a summary proceeding pursuant to "the
penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior
33 Court and the municipal court shall have jurisdiction to enforce
the provisions of "the penalty enforcement law" in connection
35 with this act.

g. A person who purposely or knowingly:

37 (1) disposes or stores regulated medical waste without
authorization from either the Department of Environmental
39 Protection or the Department of Health, as appropriate, or in

1 violation of this act, or any rule or regulation adopted pursuant
thereto;

3 (2) makes any false or misleading statement to any person who
prepares any regulated medical waste application, registration,
5 form, label, certification, manifest, record, report, or other
document required by this act, or any rule or regulation adopted
7 pursuant thereto;

(3) makes any false or misleading statement on any regulated
9 medical waste application, registration, form, label,
certification, manifest, record, report, or other document
11 required by this act, or any rule or regulation adopted pursuant
thereto; or

13 (4) fails to properly treat certain types of regulated medical
waste designated by the Department of Health in a prescribed
15 manner; shall, upon conviction, be guilty of a crime of the third
degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall
17 be subject to a fine of not more than \$50,000 for the first
offense, and not more than \$100,000 for each subsequent offense,
19 and restitution, in addition to any other appropriate disposition
authorized by subsection b. of N.J.S.2C:43-2.

21 h. A person who recklessly or negligently:

(1) disposes or stores regulated medical waste without
23 authorization from either the Department of Environmental
Protection or the Department of Health, as appropriate, or in
25 violation of this act, or any rule or regulation adopted pursuant
thereto;

27 (2) makes any false or misleading statement to any person who
prepares any regulated medical waste application, registration,
29 form, label, certification, manifest, record, report, or other
document required by this act, or any rule or regulation adopted
31 pursuant thereto;

(3) makes any false or misleading statement on any regulated
33 medical waste application, registration, form, label,
certification, manifest, record, report, or other document
35 required by this act, or any rule or regulation adopted pursuant
thereto; or

37 (4) fails to properly treat certain types of regulated medical
waste designated by the Department of Health in a manner
39 prescribed thereby;

1 shall, upon conviction, be guilty of a crime of the fourth degree.

i. A person who, regardless of intent:

3 (1) transports any regulated medical waste to a facility or any
5 other place in the State that does not have authorization from
7 the Department of Environmental Protection and the Board of
Public Utilities to accept such waste, or in violation of this act,
or any rule or regulation adopted pursuant thereto; or

(2) transports, or receives transported, regulated medical
9 waste without completing and submitting a manifest in
accordance with this act, or any rule or regulation adopted
11 pursuant thereto;

shall, upon conviction, be guilty of a crime of the fourth degree.

13 j. A person who purposely, knowingly, or recklessly:

(1) generates and causes or permits to be transported any
15 regulated medical waste to a facility or any other place in the
State that does not have authorization from the Department of
17 Environmental Protection and the Board of Public Utilities to
accept such waste, or in violation of this act, or any rule or
19 regulation adopted pursuant thereto; or

(2) violates any other provision of this act, or any rule or
21 regulation adopted pursuant thereto, for which no other criminal
penalty has been specifically provided for; shall, upon conviction,
23 be guilty of a crime of the fourth degree.

k. All conveyances used or intended for use in the willful
25 discharge, in violation of this act, or any rule or regulation
adopted pursuant thereto, of regulated medical waste are subject
27 to forfeiture to the State pursuant to P.L.1981, c.387 (C.13:1K-1
et seq.).

29 l. The provisions of N.J.S.2C:1-6 to the contrary
notwithstanding, a prosecution for violation of subsection g.,
31 subsection h., subsection i., or subsection j. of this section shall
be commenced within five years of the date of discovery of the
33 violation.

m. No prosecution for a violation under this act shall be
35 deemed to preclude a prosecution for the violation of any other
applicable statute.

37 21. (New section) Any person who violates any provision of this
act, which violation proximately results in the discharge of
39 regulated medical waste into the waters or onto the land of this

1 State, shall be strictly liable, jointly and severally, without
2 regard to fault, for all costs, no matter by whom sustained,
3 associated with the cleanup and removal of the regulated medical
waste.

5 22. (New section) During the first registration year of each
6 applicant, or the year following any violation of this act resulting
7 in a revocation of registration, the departments may give
8 temporary approval of registrations conditioned upon the
9 applicant's effecting specified additions, changes, or
10 improvements in methods of operation and equipment within the
11 time and manner as may be required by the departments. The fee
12 for the temporary approval shall be the same as that established
13 pursuant to this act for the corresponding regular registration,
notwithstanding the length of time for which it is given.

15 23. (New section) The departments, after hearing, may revoke
16 or suspend the registration issued to any transporter or facility
17 upon a finding that the transporter or facility has:

18 a. violated this act, or any rule, regulation, or administrative
19 order adopted or issued pursuant thereto;

20 b. violated any law, or any rule, regulation, or administrative
21 order adopted or issued pursuant thereto; related to pollution of
the environment or endangerment of the public health; or

22 c. refused or failed to comply with any lawful order of either
23 of the departments.

25 24. (New section) A member of the public who supplies
26 information to an enforcing authority that proximately results in
27 the imposition and collection of a civil penalty as the result of a
28 civil action brought pursuant to subsection f. of section 20 of this
29 act, or any rule or regulation adopted, administrative order
30 issued, or assessment imposed pursuant thereto, or the imposition
31 and collection of a criminal penalty as a result of a criminal
32 action brought pursuant to subsections g., h., i., or j. of section 20
33 of this act, shall be entitled to a reward of 10% of the penalty
34 collected, or \$250.00, whichever amount is greater. The reward
35 shall be paid by the appropriate department from any money
received by the department pursuant to section 20 of this act.
37 The Attorney General shall adopt, pursuant to the
"Administrative Procedure Act," rules and regulations necessary
39 to implement this section, including procedures to provide for the

1 protection of the identity of persons providing information to an
enforcing authority concerning a violation of this act in
3 appropriate circumstances.

25. (New section) The State and any of its political
5 subdivisions, public agencies, and public authorities shall be
deemed a person within the meaning of this act.

7 26. Section 7 of P.L.1970, c.39 (C.13:1E-7) is amended to read
as follows:

9 7. a. There is hereby created in the department an Advisory
Council on Solid Waste Management which shall consist of [11] 13
11 members, four of whom shall be the President of the Board of
Public [Utility Commissioners] Utilities, the Commissioner of
13 Community Affairs, the Secretary of Agriculture and the
Commissioner of Health, or their designees, who shall serve ex
15 officio, and [seven] nine citizens of the State, three of whom
shall be actively engaged in the management of either solid waste
17 collection or solid waste disposal, or both, two health
professionals of whom one shall be a representative of the New
19 Jersey Hospital Association and the other a licensed practitioner
selected from the medical or dental communities in the State
21 who shall represent the regulated medical waste generators in the
State, and four of whom shall be representing the general public
23 to be appointed by the Governor, with the advice and consent of
the Senate. The Governor shall designate a chairman and vice
25 chairman of the council from the public members who shall serve
at the will of the Governor.

27 b. [Of the seven] All public members [first to be appointed
three] shall be appointed for terms of [2 years, two for terms of 3
29 years and two for terms of 4 years. Thereafter all appointments
shall be made for terms of] 4 years. All appointed members shall
31 serve after the expiration of their terms until their respective
successors are appointed and shall qualify, and any vacancy
33 occurring in the appointed membership of the council by
expiration of term or otherwise, shall be filled in the same
35 manner as the original appointment for the unexpired term only,
notwithstanding that the previous incumbent may have held over
37 and continued in office as aforesaid.

c. Members of the council shall serve without compensation
39 but shall be reimbursed for expenses actually incurred in

1 attending meetings of the council and in performance of their
duties as members thereof.

3 (cf: P.L.1975, c.326, s.7.1)

5 27. Section 8 of P.L.1970, c.39 (C.13:1E-8) is amended to read
as follows:

7 8. The Advisory Council on Solid Waste Management is
empowered to:

9 a. Request from the commissioner such information
concerning the Statewide solid waste [programs and] management
11 plan or district solid waste management plans as it may deem
necessary;

13 b. Consider any matter relating to the [preservation and]
improvement of the Statewide solid waste [programs and]
management plan or district solid waste management plans, and
15 advise the commissioner thereon;

17 c. From time to time submit to the commissioner any
recommendations which it deems necessary for the [proper
conduct and] improvement of the Statewide solid waste [programs
19 and] management plan or district solid waste management plans;

21 d. [Study solid waste programs and the solid waste
management plans submitted by the commissioner, and make its
recommendations thereon to the commissioner] From time to
23 time submit to the commissioner recommendations of any
statutory and regulatory changes deemed necessary to implement
25 the comprehensive State regulated medical waste management
plan prepared by the Department of Environmental Protection
27 and the Department of Health pursuant to section 13 of P.L.1989,
c. (C.) (now before the Legislature as this bill);

29 e. Study any regulations [promulgated] adopted by the
department and the [Public Health Council in regard to solid
31 waste] Department of Health concerning the management of
regulated medical waste and make its recommendations for their
33 improvement to the commissioner;

35 f. Study and investigate the state of the art and the technical
capabilities and limitations of regulations concerning solid waste
and report their finding and recommendations thereon to the
37 commissioner;

39 g. Study and investigate the need for programs for the long
range technical support of solid waste programs and solid waste

1 management plans, and report their findings and
recommendations thereon to the commissioner;

3 h. Hold public hearings annually or more frequently in regard
to existing solid waste statutes and regulations and upon the state
5 of the art and technical capabilities and limitations in solid waste
and report its recommendations thereon to the commissioner.

7 (cf: P.L.1975. c.326, s.8)

28. Section 3 of P.L.1971, c.461 (C.13:1E-18) is amended to
9 read as follows:

3. a. The department may in accordance with a fee schedule
11 adopted as a rule or regulation establish and charge annual or
periodic fees for any of the services it performs in connection
13 with [this act, which fees shall be annual or periodic as the
department shall determine] the "Solid Waste Management Act,"
15 P.L.1970, c.39 (C.13:1E-1 et seq.). [The fees charged by the
department pursuant to this section shall not be less than \$10.00
17 nor more than \$500.00 based on criteria contained in the fee
schedule.]

19 b. The fee schedule shall reasonably reflect the duration or
complexity of the specific service rendered, permit application
21 reviewed, or registration statement or engineering design
application approval sought.

23 (cf: P.L.1971, c.461, s.3)

29. Section 2 of P.L.1983, c.392 (C.13:1E-127) is amended to
25 read as follows:

2. As used in this act:

27 a. "Applicant" means any person seeking a license.

29 b. "Application" means the forms and accompanying
documents filed in connection with the applicant's request for a
license.

31 c. "Business concern" means any corporation, association,
firm, partnership, trust or other form of commercial organization.

33 d. "Department" means the Department of Environmental
Protection.

35 e. "Disclosure statement" means a statement submitted to the
department by an applicant, which statement shall include:

37 (1) The full name, business address and social security number
of the applicant, or, if the applicant is a business concern, of any
39 officers, directors, partners, or key employees thereof and all

1 persons or business concerns holding any equity in or debt liability
2 of that business concern, or, if the business concern is a publicly
3 traded corporation, all persons or business concerns holding more
4 than 5% of the equity in or debt liability of that business concern,
5 except that where the debt liability is held by a chartered lending
6 institution, the applicant need only supply the name and business
7 address of the lending institution;

(2) The full name, business address and social security number
8 of all officers, directors, or partners of any business concern
9 disclosed in the statement and the names and addresses of all
10 persons holding any equity in or the debt liability of any business
11 concern so disclosed, or, if the business concern is a publicly
12 traded corporation, all persons or business concerns holding more
13 than 5% of the equity in or debt liability of that business concern,
14 except that where the debt liability is held by a chartered lending
15 institution, the applicant need only supply the name and business
16 address of the lending institution;

(3) The full name and business address of any company which
17 collects, transports, treats, stores or disposes of solid waste or
18 hazardous waste in which the applicant holds an equity interest;

(4) A description of the experience and credentials in,
19 including any past or present licenses for, the collection,
20 transportation, treatment, storage or disposal of solid waste or
21 hazardous waste possessed by the applicant, or, if the applicant is
22 a business concern, by the key employees, officers, directors, or
23 partners thereof;

(5) A listing and explanation of any notices of violation or
24 prosecution, administrative orders or license revocations issued
25 by any State or federal authority, in the 10 years immediately
26 preceding the filing of the application, which are pending or have
27 resulted in a finding or a settlement of a violation of any law or
28 rule and regulation relating to the collection, transportation,
29 treatment, storage or disposal of solid waste or hazardous waste
30 by the applicant, or if the applicant is a business concern, by any
31 key employee, officer, director, or partner thereof;

(6) A listing and explanation of any judgment of liability or
32 conviction which was rendered, pursuant to any State or federal
33 statute or local ordinance, against the applicant, or, if the
34 applicant is a business concern, against any key employee,
35
36
37
38
39

1 officer, director, or partner thereof, except for any violation of
Title 39 of the Revised Statutes;

3 (7) A listing of all labor unions and trade and business
associations in which the applicant was a member or with which
5 the applicant had a collective bargaining agreement during the 10
years preceding the date of the filing of the application;

7 (8) A listing of any agencies outside of New Jersey which had
regulatory responsibility over the applicant in connection with his
9 collection, transportation, treatment, storage or disposal of solid
waste or hazardous waste;

11 (9) Any other information the Attorney General or the
department may require that relates to the competency,
13 reliability or good character of the applicant.

f. "Key employee" means any person employed by the
15 applicant or the licensee in a supervisory capacity or empowered
to make discretionary decisions with respect to the solid waste or
17 hazardous waste operations of the business concern but shall not
include employees exclusively engaged in the physical or
19 mechanical collection, transportation, treatment, storage or
disposal of solid or hazardous waste.

21 g. "License" means the initial approval and first renewal[,
subsequent to the effective date of this act.] by the department
23 of any registration statement or engineering design pursuant to
P.L.1970, c.39 (C.13:1E-1 et seq.)[,] or P.L.1981, c.279
25 (C.13:1E-49 et seq.), for the collection, transportation,
treatment, storage or disposal of solid waste or hazardous waste
27 in this State, except that "license" shall not include any
registration statement or engineering design approved for:

29 (1) Any State department, division, agency, commission or
authority, or county, municipality or agency thereof;

31 (2) Any person solely for the collection, transportation,
treatment, storage or disposal of solid waste or hazardous waste
33 generated by that person;

(3) Any person for the operation of a hazardous waste facility,
35 if at least 75% of the total design capacity of that facility is
utilized to treat, store or dispose of hazardous waste generated
37 by that person; or

(4) Any person for the operation of a hazardous waste facility
39 which is considered as such solely as the result of the recycling or

1 refining of hazardous wastes which are or contain gold, silver,
osmium, platinum, palladium, iridium, rhodium, ruthenium, or
3 copper; [or]

5 (5) Any person solely for the collection, transportation,
treatment, storage or disposal of granular activated carbon used
in the adsorption of hazardous waste; or

7 (6) Any regulated medical waste generator for the treatment
or disposal of regulated medical waste at any noncommercial
9 incinerator or noncommercial facility in this State that accepts
regulated medical waste for disposal.

11 h. "Licensee" means any person who has received a license.
(cf: P.L.1983, c.392, s.2)

13 30. Section 7 of P.L.1970, c.40 (C.48:13A-6) is amended to
read as follows:

15 7. a. No person shall engage, or be permitted to engage, in the
business of solid waste collection or solid waste disposal until
17 found by the board to be qualified by experience, training or
education to engage in such business, is able to furnish proof of
19 financial responsibility, and holds a certificate of public
convenience and necessity issued by the Board of Public [Utility
21 Commissioners] Utilities. No certificate shall be issued for solid
waste collection or solid waste disposal until the proposed
23 collection or disposal system has been registered with and
approved by the State Department of Environmental Protection
25 as provided by [law] section 5 of P.L.1970, c.39 (C.13:1E-5).

27 b. No person shall transport regulated medical waste until
found by the Board of Public Utilities to be qualified by
experience, training or education to engage in such business, is
29 able to furnish proof of financial responsibility, and holds a
certificate of public convenience and necessity issued by the
31 board. No certificate shall be issued for the transportation of
regulated medical waste until the proposed transporter has
33 obtained a registration statement required by section 5 of
P.L.1970, c.39 (C.13:1E-5) and paid the fee imposed under section
35 9 of P.L. , c. (C.) (now before the Legislature as this
bill).

37 c. Notwithstanding the provisions of subsection b. of this
section, the board shall not have jurisdiction over rates or
39 charges for the transportation of regulated medical waste.

(cf: P.L.1970, c.40, s.7)

1 **31. (New section) The monies collected from the fees imposed**
3 **pursuant to sections 7, 8, and 10 of this act shall be utilized by**
5 **the departments to administer and enforce this act, and shall be**
 allocated as follows: 75% to the Department of Environmental
 Protection and 25% to the Department of Health.

7 **32. (New section) The departments shall, pursuant to the**
 "Administrative Procedure Act," adopt rules and regulations
 necessary to implement this act.

9 **33. (New section) The provisions of this act and any rule or**
11 **regulation promulgated thereunder shall supersede any local**
13 **ordinance, rule or regulation concerning the proper and safe**
 tracking, identification, packaging, storage, control, monitoring,
 handling, collection, and disposal of regulated medical waste.

15 **34. To effectuate the purposes of this act, there is**
17 **appropriated from the General Fund the sum of \$750,000 to the**
19 **Department of Environmental Protection, and the sum of**
 \$250,000 to the Department of Health. There is appropriated
 from the General Fund to the departments the sum of \$250,000 to
 implement the provisions of section 13 of this act.

21 **35. This act shall take effect immediately.**

21

23

ENVIRONMENT

Solid Waste

25

27 **The "Comprehensive Regulated Medical Waste Management**
 Act"; appropriates \$1,250,000.

ASSEMBLY, No. 2853

STATE OF NEW JERSEY

INTRODUCED MARCH 21, 1988

By Assemblymen VILLANE, LoBIONDO and Palaia

1 AN ACT concerning medical waste, supplementing Title 13 of the
2 Revised Statutes, and making an appropriation.

3

4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. This act shall be known, and may be cited, as the
7 "Comprehensive Medical Waste Management Act."

8 2. The Legislature finds that various human and animal health
9 care centers and clinics, hospitals, laboratories, and other
10 facilities generate substantial volumes of medical waste that
11 must be transported and disposed in a sanitary and
12 environmentally sound manner; that this waste poses both a
13 potential threat to the health of those persons who handle,
14 transport, dispose, or otherwise come into contact with it and to
15 the public health; that, in addition to the actual and perceived
16 risks associated with the management of medical waste, there
17 are important aesthetic concerns that must be addressed; that
18 the present regulatory scheme for medical waste is confusing and
19 inadequate, and the enforcement thereof has been lacking and the
20 penalties assessed for violations insufficient; and that the
21 citizens of the State generally lack confidence that medical
22 waste in the State is being managed in a proper and safe manner.

23 The Legislature therefore declares that it is appropriate to
24 establish a comprehensive system that provides for the proper
25 and safe tracking, identification, packaging, storage, control,
26 monitoring, handling, collection, and disposal of medical waste;
27 that monitoring of the medical waste stream is best accomplished
28 through the creation of a coupon tracking system for transporters
29 and disposers of medical waste; that, in order to sustain a viable
30 medical waste transport and disposal industry, medical waste
31 must be excluded from district solid waste management plans,
32 and the transport and disposal thereof regulated entirely by the
33 State; that creation of a commission to study the medical waste
34 disposal needs of the State is warranted; and that it is
35 appropriate to provide for strict enforcement of the law

1 concerning medical waste and to establish substantial civil and
criminal penalties for violations thereof.

3 3. As used in this act:

"Board" means the Board of Public Utilities.

5 "Collection" means the activity related to pick-up and
transportation of special medical waste or general medical waste
7 from a generator, or from an intermediate location, to a facility,
or to a site outside the State, for disposal.

9 "Commission" means the New Jersey Medical Waste Study
Commission created pursuant to this act.

11 "Commissioners" means the Commissioner of Environmental
Protection and the Commissioner of Health.

13 "Departments" means the Department of Environmental
Protection and the Department of Health.

15 "Dispose or disposal" means the storage, treatment,
utilization, processing, resource recovery of, or the discharge,
17 deposit, injection, dumping, spilling, leaking, or placing of any
special medical waste or general medical waste into or on any
19 land or water so that the special medical waste or general
medical waste or any constituent thereof may enter the
21 environment or be emitted into the air or discharged into any
waters, including groundwaters.

23 "Facility" means a solid waste facility defined and regulated
pursuant to P.L. 1970, c. 39 (C. 13:1E-1 et seq.).

25 "Generator" means an ambulatory surgical or care facility,
community health center, dentist's office, doctor's office,
27 funeral home, health care facility, home health agency, hospital,
medical clinic, morgue, nursing home, urgent care center,
29 veterinary office or clinic, animal, biological, clinical, medical,
microbiological, or pathological diagnostic or research
31 laboratory, or any other facility identified by the departments
that generates special medical waste or general medical waste.

33 "General medical waste" means all solid waste, other than
special medical waste, dietary waste, office and administrative
35 paper waste, clean corrugated paper and boxes, and light weight
demolition and construction waste, generated by a generator, the
37 disposal of which is not otherwise specifically regulated by law.

"Medical waste" means special medical waste and general
39 medical waste.

1 **"Special medical waste"** means liquid and solid microbiological
2 culture media; needles, syringes, and sharps; pathology
3 specimens, including tissues, organs, body parts, and products of
4 conception; bulk blood, blood products, and body fluids, except
5 urine or fecal matter, at least 20 cubic centimeters in volume;
6 waste generated from rare or unusual cases involving
7 communicable diseases, as determined by the Department of
8 Health; and carcasses, body parts, and bedding of any research
9 animal that was intentionally exposed to a pathogen.

10 **"Transporter"** means a person engaged in the collection of
11 special medical waste or general medical waste.

12 4. The Department of Environmental Protection, in
13 consultation with the Department of Health, shall establish and
14 implement a system that shall provide for the proper and safe
15 tracking, identification, packaging, storage, control, monitoring,
16 handling, collection, and disposal of medical waste. This system
17 shall include the following provisions:

18 a. A coupon book shall be issued to each transporter of special
19 medical waste or general medical waste for those routes or stops
20 that the Department of Environmental Protection and the board
21 has authorized the transporter to collect special medical waste or
22 general medical waste from.

23 b. A coupon shall include such information as, and shall be
24 completed by the transporter and the facility operator in a
25 manner, prescribed by the Department of Environmental
26 Protection.

27 c. The appropriate portion of each completed coupon shall be
28 retained by the transporter and the facility operator in a manner,
29 and for a period, prescribed by the Department of Environmental
30 Protection, but not less than three years, and shall, upon request,
31 be made available to the departments, together with any other
32 records the departments may require to be retained pursuant to
33 this act. A transporter and a facility operator shall report to the
34 Department of Environmental Protection any discrepancy noted
35 on a coupon completed or retained in accordance with this act, or
36 any rule or regulation adopted pursuant thereto.

37 d. A transporter who transports special medical waste or
38 general medical waste out of the State for disposal shall
39 complete and return to the Department of Environmental

1 Protection that portion of a coupon normally completed by a
facility operator.

3 e. All special medical waste shall be:

5 (1) securely stored, packaged for safe handling, and
distinctively identified by a generator as special medical waste
and with the name and address of the generator on the outside of
7 the package in a manner approved by the departments; and

9 (2) securely stored and transported by a transporter separately
from all other solid waste except as provided pursuant to
subsection j. of this section, and may not be stored by a
11 generator, transporter, or any other person longer than a period
prescribed by the Department of Health; and

13 (3) incinerated in a facility approved therefor, or otherwise
destroyed or disposed in a manner approved by law or the
15 departments, except that no special medical waste may be
disposed in a sanitary landfill unless it has been processed in
17 accordance with subsection g. of this section and so identified.

f. All general medical waste shall be:

19 (1) securely stored, packaged for safe handling, and
distinctively identified by a generator as general medical waste
and with the name and address of the generator on the outside of
21 the package in a manner approved by the departments; and

23 (2) securely stored and transported by a transporter separately
from all other solid waste except as provided pursuant to
25 subsection j. of this section, and may not be stored by a
generator, transporter, or any other person longer than a period
27 prescribed by the Department of Health; and

29 (3) disposed in a facility approved therefor in a manner
approved by law or the departments, except that if disposed in a
sanitary landfill, it shall be segregated from other solid waste and
31 immediately covered.

33 g. The Department of Health shall prescribe which types of
special medical waste shall be disinfected or sterilized by a
generator and, in the case of special medical waste autoclaved,
35 and wherever else appropriate, the proper time and temperature
exposures, volume, load, and density configurations, packaging,
37 and labeling that shall be utilized.

39 h. A generator shall certify to the transporter for each
collection of special medical waste or general medical waste that

1 the generator has complied with paragraphs (1) and (2) of
2 subsections e. and f. and with subsection g. of this section. No
3 transporter may collect special medical waste or general medical
4 waste from a generator unless the generator has supplied this
5 certification. A facility operator may require a transporter to
6 produce all such pertinent certifications as a condition of
7 accepting special medical waste or general medical waste for
8 disposal.

9 i. A transporter shall certify to the Department of
10 Environmental Protection that the transporter will comply with
11 this act, and any rule or regulation adopted pursuant thereto, and
12 shall disclose to the department the number and types of vehicles
13 utilized by that transporter for the collection of special medical
14 waste or general medical waste and the equipment or methods
15 utilized to ensure secure segregation of such waste.

16 j. A transporter may not transport special medical waste and
17 general medical waste in the same vehicle at the same time
18 unless all of the waste within the vehicle is to be managed and
19 disposed as special medical waste.

20 5. Every generator shall register with the Department of
21 Environmental Protection on a form prescribed by the
22 department, and pay an annual fee therefor in an amount set by
23 the department not to exceed \$100. The generator shall indicate
24 on the registration form the name of every transporter retained
25 by the generator to collect the generator's special medical waste
26 or general medical waste.

27 6. No person may transport either special medical waste or
28 general medical waste unless the person has:

29 a. met such requirements as may be prescribed by the
30 Department of Environmental Protection, and filed a registration
31 statement and obtained approval thereof from the department on
32 a form provided, and containing such information as may be
33 prescribed, by the department, except that a separate
34 registration statement and approval thereof shall be required for
35 the transport of special medical waste and the transport of
36 general medical waste; and

37 b. paid, an annual registration fee in an amount set by the
38 Department of Environmental Protection not to exceed \$100; and

39 c. received instruction from the departments on the proper

1 and safe tracking, identification, packaging, storage, control,
2 monitoring, handling, collection, and disposal of medical waste;
3 and

4 d. obtained a registration statement required by section 5 of
5 P.L. 1970, c. 39 (C. 13:1E-5); and

6 e. obtained a certificate of public convenience and necessity
7 required by section 7 of P.L. 1970, c. 40 (C. 48:13A-6); and

8 f. complied with the requirements of P.L. 1983, c. 392 (C.
9 13:1E-126 et seq.) concerning the filing of disclosure statements.

10 7. No person may accept:

11 a. special medical waste or general medical waste for disposal
12 within the State or for transfer to a disposal site outside the
13 State except upon authorization of the Department of
14 Environmental Protection;

15 b. special medical waste for disposal within the State or for
16 transfer to a disposal site outside the State except upon payment
17 of an annual registration fee in an amount set by the Department
18 of Environmental Protection not to exceed \$100.

19 8. The departments shall provide at least written instruction
20 on the proper and safe tracking, identification, packaging,
21 storage, control, monitoring, handling, collection, and disposal of
22 medical waste to every employee of a transporter or facility who
23 may come into contact with special medical waste or general
24 medical waste. The departments shall also jointly and regularly
25 conduct a course thereon, which all supervisory personnel of a
26 transporter or facility shall be required to attend.

27 9. Medical waste shall be excluded from district solid waste
28 management plans adopted pursuant to P.L. 1970, c. 39 (C.
29 13:1E-1 et seq.). The Department of Environmental Protection
30 and the board shall determine where medical waste may be
31 disposed, and the board shall have jurisdiction over charges or
32 rates assessed for the transport and disposal of special medical
33 waste or general medical waste. The Department of
34 Environmental Protection and the board may require any sanitary
35 landfill to accept for disposal medical waste prepared for that
36 purpose in accordance with this act, and any rule or regulation
37 adopted pursuant thereto, on the same terms as ordinary solid
38 waste.

39 10. a. There is created the New Jersey Medical Waste Study
40 Commission, which shall comprise nine members, as follows:

- 1 (1) The Commissioners of the Departments of Environmental
Protection and Health or their designated representatives;
- 3 (2) The Attorney General or his designated representative;
- 5 (3) The President of the Board of Public Utilities or his
designated representative; and
- 7 (4) Six citizen members, to be appointed by the Governor with
the advice and consent of the Senate: four of whom shall be
9 selected from the technical, scientific, health, or medical
communities in the State, including two health professionals who
11 are representatives of the hospital industry, one of whom shall be
a representative of the New Jersey Hospital Association; and two
13 of whom shall be representatives of the solid waste collection or
disposal industries in the State.

All of the public members shall serve ex officio.

15 b. Vacancies in the membership of the commission shall be
filled in the same manner as the original appointments were made.

17 c. Members of the commission shall serve without
compensation, but shall be entitled to reimbursement for actual
19 expenses necessarily incurred in carrying out their duties as
members of the commission.

21 d. Appointments to the commission shall be made and qualified
not later than 30 days after the effective date of this act.

23 11. The commission shall hold an organizational meeting
within 30 days of the appointment and qualification of the full
25 membership thereof, and shall elect a chairperson from among its
public members, and a secretary, who need not be a member of
27 the commission.

29 12. It shall be the duty of the commission to study the issue of
medical waste in the State and prepare a comprehensive, State
31 plan addressing the immediate, interim, and long-term needs of
the State with respect to the disposal of medical waste in a
manner that will protect the public health and the environment.
33 The commission, within one year of its first organizational
meeting, shall transmit to the Governor and the Legislature its
35 report and the State plan, which shall include:

a. an inventory of the number and types of generators of
37 medical waste within the State, and of the composition and
quantities of medical waste generated thereby;

39 b. a projection of the number and types of generators of

1 medical waste within the State in the next 30 years from the
effective date of this act, and the composition and quantities of
3 medical waste to be generated thereby;

5 c. an evaluation of the impact of out-of-State generators upon
the present and future medical waste disposal capacity within the
State;

7 d. an evaluation of the status of the medical waste collection
and disposal industries, and whether they are of sufficient size
9 and competitiveness to meet the needs of the State, and, if not,
recommendations of ways to increase the size and
11 competitiveness thereof;

13 e. an inventory and appraisal, including the identity, location,
and life expectancy, of all solid waste facilities within the State
and in nearby states permitted to accept special medical waste or
15 general medical waste for disposal;

17 f. a recommendation of the medical waste disposal strategy to
be applied in the State, which strategy shall include the maximum
practicable use of resource recovery procedures and
19 consideration of the establishment of regional medical waste
disposal facilities; and

21 g. recommendations of any statutory and regulatory changes
deemed necessary to implement the State plan and assure
23 utilization of the most sanitary, efficient, and economical
methods for the tracking, identification, packaging, storage,
25 control, monitoring, handling, collection, and disposal of medical
waste.

27 Upon submission of its report and the State plan, the
commission shall expire.

29 13. The commission shall be entitled to call upon the
assistance of the officers and employees of any State, county, or
31 municipal department, board, bureau, commission, or agency as it
may require and as may be available to it to conduct its work,
33 and may incur such expenses as it may deem necessary, and as
may be within the limit of any funds appropriated or otherwise
35 made available to it, to fulfill its responsibilities.

37 14. The departments shall seek the cooperation of their
counterparts in the states of New York and Pennsylvania in
developing regional medical waste tracking, identification,
39 packaging, storage, control, monitoring, handling, collection, and

1 disposal procedures consistent with those set forth in this act.
The departments shall prepare, and transmit to the Governor and
3 the Legislature, a report summarizing these discussions, including
recommendations for appropriate executive and legislative action.

5 15. a. This act, and any rule or regulation adopted pursuant
thereto, shall be enforced by the departments and by every local
7 board of health, or county health department, as the case may be.

The departments and the local board of health, or the county
9 health department, as the case may be, shall have the right to
enter the premises of a generator, transporter, or facility at any
11 time in order to determine compliance with this act.

The municipal attorney or an attorney retained by a
13 municipality in which a violation of this act is alleged to have
occurred shall act as counsel to a local board of health.

15 The county counsel or an attorney retained by a county in
which a violation of this act is alleged to have occurred shall act
17 as counsel to the county health department.

All enforcement activities undertaken by county health
19 departments pursuant to this subsection shall conform to all
applicable performance and administrative standards adopted
21 pursuant to section 10 of the "County Environmental Health
Act," P.L. 1977, c. 443 (C. 26:3A2-28).

23 b. Whenever the Commissioner of Environmental Protection or
the Commissioner of Health finds that a person has violated this
25 act, or any rule or regulation adopted pursuant thereto, that
commissioner shall:

27 (1) issue an order requiring the person found to be in violation
to comply in accordance with subsection c. of this section;

29 (2) bring a civil action in accordance with subsection d. of this
section;

31 (3) levy a civil administrative penalty in accordance with
subsection e. of this section;

33 (4) bring an action for a civil penalty in accordance with
subsection f. of this section; or

35 (5) petition the Attorney General to bring a criminal action in
accordance with subsections g. through l. of this section.

37 Pursuit of any of the remedies specified under this section shall
not preclude the seeking of any other remedy specified.

39 c. Whenever the Commissioner of Environmental Protection or

1 the Commissioner of Health finds that a person has violated this
act, or any rule or regulation adopted pursuant thereto, that
3 commissioner may issue an order specifying the provision or
provisions of this act, or the rule or regulation adopted pursuant
5 thereto, of which the person is in violation, citing the action that
constituted the violation, ordering abatement of the violation,
7 and giving notice to the person of the person's right to a hearing
on the matters contained in the order. The ordered party shall
9 have 20 days from receipt of the order within which to deliver to
the commissioner a written request for a hearing. After the
11 hearing and upon finding that a violation has occurred, the
commissioner may issue a final order. If no hearing is requested,
13 the order shall become final after the expiration of the 20-day
period. A request for hearing shall not automatically stay the
15 effect of the order.

d. The Commissioner of Environmental Protection, the
17 Commissioner of Health, a local board of health, or a county
health department may institute an action or proceeding in the
19 Superior Court for injunctive and other relief, including the
appointment of a receiver for any violation of this act, or of any
21 rule or regulation adopted pursuant thereto, and the court may
proceed in the action in a summary manner. In any such
23 proceeding the court may grant temporary or interlocutory relief,
notwithstanding the provisions of R.S. 48:2-24.

25 Such relief may include, singly or in combination:

- 27 (1) a temporary or permanent injunction;
- 29 (2) assessment of the violator for the costs of any
investigation, inspection, or monitoring survey that led to the
establishment of the violation, and for the reasonable costs of
preparing and litigating the case under this subsection;
- 31 (3) assessment of the violator for any cost incurred by the
State in removing, correcting, or terminating the adverse effects
33 upon environmental quality or public health resulting from any
violation of this act, or any rule or regulation adopted pursuant
35 thereto, for which the action under this subsection may have been
brought;
- 37 (4) assessment against the violator of compensatory damages
for any loss or destruction of wildlife, fish or aquatic life, and for
39 any other actual damages caused by any violation of this act, or

1 any rule or regulation adopted pursuant thereto, for which the
action under this subsection may have been brought.

3 Assessments under this subsection shall be paid to the State
Treasurer, or to the local board of health, or to the county health
5 department, as the case may be, except that compensatory
damages may be paid by specific order of the court to any
7 persons who have been aggrieved by the violation.

9 If a proceeding is instituted by a local board of health or
county health department, notice thereof shall be served upon the
commissioners in the same manner as if the commissioners were
11 named parties to the action or proceeding. Either of the
departments may intervene as a matter of right in any proceeding
13 brought by a local board of health or county health department.

e. Either of the commissioners, as the case may be, may assess
15 a civil administrative penalty of not more than \$50,000 for each
violation. Each day that a violation continues shall constitute an
17 additional, separate, and distinct offense. The commissioner may
not assess a civil administrative penalty in excess of \$25,000 for
19 a single violation, or in excess of \$2,500 for each day during
which a violation continues, until the departments have
21 respectively adopted, pursuant to the "Administrative Procedure
Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), regulations
23 requiring the appropriate commissioner, in assessing a civil
administrative penalty, to consider the operational history of the
25 violator, the severity of the violation, the measures taken to
mitigate or prevent further violations, and whether the penalty
27 will maintain an appropriate deterrent. No assessment may be
levied pursuant to this section until after the violator has been
29 notified by certified mail or personal service. The notice shall
include a reference to the section of the statute, rule, regulation,
31 or order violated, a concise statement of the facts alleged to
constitute a violation, a statement of the amount of the civil
33 administrative penalties to be imposed, and a statement of the
party's right to a hearing. The ordered party shall have 20
35 calendar days from receipt of the notice within which to deliver
to the appropriate commissioner a written request for a hearing.
37 After the hearing and upon finding that a violation has occurred,
that commissioner may issue a final order after assessing the
39 amount of the fine specified in the notice. If no hearing is

1 requested, the notice shall become a final order after the
2 expiration of the 20-day period. Payment of the assessment is
3 due when a final order is issued or the notice becomes a final
4 order. The authority to levy a civil administrative penalty is in
5 addition to all other enforcement provisions in this act, and the
6 payment of any assessment shall not be deemed to affect the
7 availability of any other enforcement provisions in connection
8 with the violation for which the assessment is levied. Each
9 department may compromise any civil administrative penalty
10 assessed under this section in an amount the department
11 determines appropriate.

12 f. A person who violates this act, or any rule or regulation
13 adopted pursuant thereto, shall be liable to a penalty of not more
14 than \$50,000 per day, to be collected in a civil action commenced
15 by the Commissioner of Environmental Protection, the
16 Commissioner of Health, a local board of health, or a county
17 health department.

18 A person who violates an administrative order issued pursuant
19 to subsection c. of this section, or a court order issued pursuant
20 to subsection d. of this section, or who fails to pay an
21 administrative assessment in full pursuant to subsection e. of this
22 section is subject upon order of a court to a civil penalty not to
23 exceed \$100,000 per day of each violation.

24 Of the penalty imposed pursuant to this subsection, 10% or
25 \$250, whichever is greater, shall be paid to the appropriate
26 department from the General Fund if the Attorney General
27 determines that a person is entitled to a reward pursuant to
28 section 18 of this act.

29 Any penalty imposed pursuant to this subsection may be
30 collected, with costs, in a summary proceeding pursuant to "the
31 penalty enforcement law" (N.J.S. 2A:58-1 et seq.). The Superior
32 Court and the municipal court shall have jurisdiction to enforce
33 the provisions of "the penalty enforcement law" in connection
34 with this act.

35 g. A person who purposely or knowingly:

36 (1) disposes or stores special medical waste or general medical
37 waste without authorization from either the Department of
38 Environmental Protection or the Department of Health, as
39 appropriate, or in violation of this act, or any rule or regulation
adopted pursuant thereto; or

1 (2) makes any false or misleading statement to any person who
2 prepares any special medical waste or general medical waste
3 application, registration, form, label, certification, coupon,
4 record, report, or other document required by this act, or any
5 rule or regulation adopted pursuant thereto; or

6 (3) makes any false or misleading statement on any special
7 medical waste or general medical waste application, registration,
8 form, label, certification, coupon, record, report, or other
9 document required by this act, or any rule or regulation adopted
10 pursuant thereto; or

11 (4) fails to disinfect or sterilize certain types of special
12 medical waste designated by the Department of Health in a
13 manner prescribed thereby shall, upon conviction, be guilty of a
14 crime of the third degree and, notwithstanding the provisions of
15 N.J.S. 2C:43-3, shall be subject to a fine of not more than
16 \$50,000 for the first offense, and not more than \$100,000 for
17 each subsequent offense, and restitution, in addition to any other
18 appropriate disposition authorized by subsection b. of N.J.S.
19 2C:43-2.

20 **h. A person who recklessly or negligently:**

21 (1) disposes or stores special medical waste or general medical
22 waste without authorization from either the Department of
23 Environmental Protection or the Department of Health, as
24 appropriate, or in violation of this act, or any rule or regulation
25 adopted pursuant thereto; or

26 (2) makes any false or misleading statement to any person who
27 prepares any special medical waste or general medical waste
28 application, registration, form, label, certification, coupon,
29 record, report, or other document required by this act, or any
30 rule or regulation adopted pursuant thereto; or

31 (3) makes any false or misleading statement on any special
32 medical waste or general medical waste application, registration,
33 form, label, certification, coupon, record, report, or other
34 document required by this act, or any rule or regulation adopted
35 pursuant thereto; or

36 (4) fails to disinfect or sterilize certain types of special
37 medical waste designated by the Department of Health in a
38 manner prescribed thereby shall, upon conviction, be guilty of a
39 crime of the fourth degree.

1 i. A person who, regardless of intent:

2 (1) transports any special medical waste or general medical
3 waste to a facility or any other place in the State that does not
4 have authorization from the Department of Environmental
5 Protection to accept such waste, or in violation of this act, or
6 any rule or regulation adopted pursuant thereto; or

7 (2) transports, or receives transported special medical waste
8 or general medical waste without completing and submitting a
9 coupon in accordance with this act, or any rule or regulation
10 adopted pursuant thereto, shall, upon conviction, be guilty of a
11 crime of the fourth degree.

j. A person who purposely, knowingly, or recklessly:

12 (1) generates and causes or permits to be transported any
13 special medical waste or general medical waste to a facility or
14 any other place in the State that does not have authorization
15 from the Department of Environmental Protection to accept such
16 waste, or in violation of this act, or any rule or regulation
17 adopted pursuant thereto; or

18 (2) violates any other provision of this act, or any rule or
19 regulation adopted pursuant thereto, for which no other criminal
20 penalty has been specifically provided for, shall, upon conviction,
21 be guilty of a crime of the fourth degree.

22 k. All conveyances used or intended for use in the willful
23 discharge, in violation of this act, or any rule or regulation
24 adopted pursuant thereto, of special medical waste or general
25 medical waste are subject to forfeiture to the State pursuant to
26 P.L. 1981, c. 387 (C. 13:1K-1 et seq.).

27 l. The provisions of N.J.S. 2C:1-6 to the contrary
28 notwithstanding, a prosecution for violation of subsection g.,
29 subsection h., subsection i., or subsection j. of this section shall
30 be commenced within five years of the date of discovery of the
31 violation.

32 16. During the first registration year of each applicant, or the
33 year following any violation of this act resulting in a revocation
34 of registration, the departments may give temporary approval of
35 registrations conditioned upon the applicant's effecting specified
36 additions, changes, or improvements in methods of operation and
37 equipment within the time and manner as may be required by the
38 departments. The fee for the temporary approval shall be the
39

1 same as that established pursuant to this act for the
2 corresponding regular registration, notwithstanding the length of
3 time for which it is given.

4 17. The departments, after hearing, may revoke or suspend the
5 registration issued to any transporter or facility upon a finding
6 that the transporter or facility has:

7 a. violated this act, or any rule, regulation, or administrative
8 order adopted or issued pursuant thereto; or

9 b. violated any law, or any rule, regulation, or administrative
10 order adopted or issued pursuant thereto, related to pollution of
11 the environment or endangerment of the public health; or

12 c. refused or failed to comply with any lawful order of either
13 of the departments.

14 18. A member of the public who supplies information to an
15 enforcing authority that proximately results in the imposition and
16 collection of a civil penalty as the result of a civil action brought
17 pursuant to subsection f. of section 15 of this act, or any rule or
18 regulation adopted, administrative order issued, or assessment
19 imposed pursuant thereto, shall be entitled to a reward of 10%
20 the civil penalty collected, or \$250, whichever amount is
21 greater. The reward shall be paid by the appropriate department
22 from any money received by the department pursuant to
23 subsection f. of section 15 of this act. The Attorney General
24 shall adopt, pursuant to the "Administrative Procedure Act,"
25 rules and regulations necessary to implement this section,
26 including procedures to provide for the protection of the identity
27 of persons providing information to an enforcing authority
28 concerning a violation of this act in appropriate circumstances.

29 19. The State and any of its political subdivisions, public
30 agencies, and public authorities shall be deemed a person within
31 the meaning of this act.

32 20. The monies collected from the fees imposed pursuant to
33 sections 5, 6, and 7 of this act shall be utilized by the
34 departments to administer and enforce this act, and shall be
35 allocated as follows: 75% to the Department of Environmental
36 Protection and 25% to the Department of Health.

37 21. The departments shall, pursuant to the "Administrative
38 Procedure Act," adopt rules and regulations necessary to
39 implement this act.

1 22. To effectuate the purposes of this act, there is
2 appropriated from the General Fund the sum of \$2,000,000 to the
3 Department of Environmental Protection, the sum of \$700,000 to
4 the Department of Health, and the sum of \$50,000 to the New
5 Jersey Medical Waste Study Commission.

6 23. Sections 1, 2, 3, 5, 10, 11, 12, 13, 14, 19, 20, 21, and 22 of
7 this act shall take effect immediately, and the remainder of the
8 act shall take effect one year following enactment, except that
9 the departments may take such administrative measures as may
10 be necessary to prepare for its implementation.

11

12

13 *Sponsors'* STATEMENT

14 This bill would require the Department of Environmental
15 Protection (DEP), in consultation with the Department of Health
16 (DOH), to establish and implement a comprehensive system to
17 provide for the proper and safe tracking, identification,
18 packaging, storage, control, monitoring, handling, collection, and
19 disposal of medical waste. The bill would, among other
20 requirements, incorporate many of the recommendations of a
21 1987 State grand jury presentment concerning the treatment and
22 disposal of hospital and infectious waste in the State.

23 The bill would provide for the regulation of two categories of
24 medical waste, special medical waste and general medical waste,
25 produced at hospitals, doctor's and dentist's offices, nursing
26 homes, laboratories, funeral homes, veterinary clinics, and a
27 variety of other health care facilities. Special medical waste
28 would include a series of waste items deemed to pose the
29 greatest potential threat to public health. General medical waste
30 would be all solid waste, other than special medical waste,
31 dietary waste, office and administrative paper waste, clean
32 corrugated paper and boxes, and light weight demolition and
33 construction waste, produced by the regulated facilities, the
34 disposal of which is not otherwise specifically regulated by law.

35 A coupon tracking system would be established for transporters
36 and disposers of special medical waste or general medical waste.
37 Transporters and disposers of these wastes would also be strictly
38 regulated.
39

1 The bill would create a New Jersey Medical Waste Study
Commission to study the issue of medical waste in the State and
3 to prepare a comprehensive, State plan addressing the immediate,
interim, and long-term needs of the State with respect to the
5 disposal of medical waste in a manner that will protect the public
health and the environment.

7 In order to sustain a viable medical waste transport and
disposal industry, medical waste would be excluded from district
9 solid waste management plans adopted pursuant to the "Solid
Waste Management Act." The DEP and the Board of Public
11 Utilities (BPU) would determine where medical waste would be
disposed, and the BPU would have jurisdiction over charges or
13 rates assessed for the transport and disposal of special medical
waste or general medical waste.

15 Violators of the bill's provisions would face stringent civil and
criminal penalties.

17 Appropriations of \$2 million to the Department of
Environmental Protection, \$700,000 to the Department of Health,
19 and \$50,000 to the study commission are provided to enable the
respective agencies to perform the initial responsibilities imposed
21 by this act. Thereafter, the departments' medical waste
programs are to be funded by annual fees of up to \$100 imposed
23 upon generators, transporters, and disposers of medical waste.

25

ENVIRONMENT

27

Solid Waste

29 The "Comprehensive Medical Waste Management Act";
appropriates \$2,750,000.

SENATE, No. 2343

STATE OF NEW JERSEY

INTRODUCED MARCH 28, 1988

**By Senators PALLONE, VAN WAGNER, RUSSO, HURLEY,
CONNORS, GORMLEY, and GAGLIANO**

1 **AN ACT concerning medical waste, supplementing Title 13 of the**
2 **Revised Statutes, and making an appropriation.**

3

4 **BE IT ENACTED by the Senate and General Assembly of the**
5 **State of New Jersey:**

6 1. This act shall be known, and may be cited, as the
7 "Comprehensive Medical Waste Management Act."

8 2. The Legislature finds that various human and animal health
9 care centers and clinics, hospitals, laboratories, and other
10 facilities generate substantial volumes of medical waste that
11 must be transported and disposed in a sanitary and
12 environmentally sound manner; that this waste poses both a
13 potential threat to the health of those persons who handle,
14 transport, dispose, or otherwise come into contact with it and to
15 the public health; that, in addition to the actual and perceived
16 risks associated with the management of medical waste, there
17 are important aesthetic concerns that must be addressed; that
18 the present regulatory scheme for medical waste is confusing and
19 inadequate, and the enforcement thereof has been lacking and the
20 penalties assessed for violations insufficient; and that the
21 citizens of the State generally lack confidence that medical
22 waste in the State is being managed in a proper and safe manner.

23 The Legislature therefore declares that it is appropriate to
24 establish a comprehensive system that provides for the proper
25 and safe tracking, identification, packaging, storage, control,
26 monitoring, handling, collection, and disposal of medical waste;
27 that monitoring of the medical waste stream is best accomplished
28 through the creation of a coupon tracking system for transporters
29 and disposers of medical waste; that, in order to sustain a viable
30 medical waste transport and disposal industry, medical waste
31 must be excluded from district solid waste management plans,
32 and the transport and disposal thereof regulated entirely by the
33 State; that creation of a commission to study the medical waste
disposal needs of the State is warranted; and that it is

1 appropriate to provide for strict enforcement of the law
concerning medical waste and to establish substantial civil and
3 criminal penalties for violations thereof.

3. As used in this act:

5 "Board" means the Board of Public Utilities.

7 "Collection" means the activity related to pick-up and
transportation of special medical waste or general medical waste
from a generator, or from an intermediate location, to a facility,
9 or to a site outside the State, for disposal.

11 "Commission" means the New Jersey Medical Waste Study
Commission created pursuant to this act.

13 "Commissioners" means the Commissioner of Environmental
Protection and the Commissioner of Health.

15 "Departments" means the Department of Environmental
Protection and the Department of Health.

17 "Dispose or disposal" means the storage, treatment,
utilization, processing, resource recovery of, or the discharge,
deposit, injection, dumping, spilling, leaking, or placing of any
19 special medical waste or general medical waste into or on any
land or water so that the special medical waste or general
21 medical waste or any constituent thereof may enter the
environment or be emitted into the air or discharged into any
23 waters, including groundwaters.

25 "Facility" means a solid waste facility defined and regulated
pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.).

27 "Generator" means an ambulatory surgical or care facility,
community health center, dentist's office, doctor's office,
funeral home, health care facility, home health agency, hospital,
29 medical clinic, morgue, nursing home, urgent care center,
veterinary office or clinic, animal, biological, clinical, medical,
31 microbiological, or pathological diagnostic or research
laboratory, or any other facility identified by the departments
33 that generates special medical waste or general medical waste.

35 "General medical waste" means all solid waste, other than
special medical waste, dietary waste, office and administrative
paper waste, clean corrugated paper and boxes, and light weight
37 demolition and construction waste, generated by a generator, the
disposal of which is not otherwise specifically regulated by law.

39 "Medical waste" means special medical waste and general
medical waste.

1 "Special medical waste" means liquid and solid microbiological
2 culture media; needles, syringes, and sharps; pathology
3 specimens, including tissues, organs, body parts, and products of
4 conception; bulk blood, blood products, and body fluids, except
5 urine or fecal matter, at least 20 cubic centimeters in volume;
6 waste generated from rare or unusual cases involving
7 communicable diseases, as determined by the Department of
8 Health; and carcasses, body parts, and bedding of any research
9 animal that was intentionally exposed to a pathogen.

10 "Transporter" means a person engaged in the collection of
11 special medical waste or general medical waste.

12 4. The Department of Environmental Protection, in
13 consultation with the Department of Health, shall establish and
14 implement a system that shall provide for the proper and safe
15 tracking, identification, packaging, storage, control, monitoring,
16 handling, collection, and disposal of medical waste. This system
17 shall include the following provisions:

18 a. A coupon book shall be issued to each transporter of special
19 medical waste or general medical waste for those routes or stops
20 that the Department of Environmental Protection and the board
21 has authorized the transporter to collect special medical waste or
22 general medical waste from.

23 b. A coupon shall include such information as, and shall be
24 completed by the transporter and the facility operator in a
25 manner, prescribed by the Department of Environmental
26 Protection.

27 c. The appropriate portion of each completed coupon shall be
28 retained by the transporter and the facility operator in a manner,
29 and for a period, prescribed by the Department of Environmental
30 Protection, but not less than three years, and shall, upon request,
31 be made available to the departments, together with any other
32 records the departments may require to be retained pursuant to
33 this act. A transporter and a facility operator shall report to the
34 Department of Environmental Protection any discrepancy noted
35 on a coupon completed or retained in accordance with this act, or
36 any rule or regulation adopted pursuant thereto.

37 d. A transporter who transports special medical waste or
38 general medical waste out of the State for disposal shall
39 complete and return to the Department of Environmental

1 Protection that portion of a coupon normally completed by a
facility operator.

3 e. All special medical waste shall be:

5 (1) securely stored, packaged for safe handling, and
distinctively identified by a generator as special medical waste
and with the name and address of the generator on the outside of
7 the package in a manner approved by the departments; and

9 (2) securely stored and transported by a transporter separately
from all other solid waste except as provided pursuant to
subsection j. of this section, and may not be stored by a
11 generator, transporter, or any other person longer than a period
prescribed by the Department of Health; and

13 (3) incinerated in a facility approved therefor, or otherwise
destroyed or disposed in a manner approved by law or the
15 departments, except that no special medical waste may be
disposed in a sanitary landfill unless it has been processed in
17 accordance with subsection g. of this section and so identified.

f. All general medical waste shall be:

19 (1) securely stored, packaged for safe handling, and
distinctively identified by a generator as general medical waste
and with the name and address of the generator on the outside of
21 the package in a manner approved by the departments; and

23 (2) securely stored and transported by a transporter separately
from all other solid waste except as provided pursuant to
25 subsection j. of this section, and may not be stored by a
generator, transporter, or any other person longer than a period
27 prescribed by the Department of Health; and

29 (3) disposed in a facility approved therefor in a manner
approved by law or the departments, except that if disposed in a
sanitary landfill, it shall be segregated from other solid waste and
31 immediately covered.

g. The Department of Health shall prescribe which types of
33 special medical waste shall be disinfected or sterilized by a
generator and, in the case of special medical waste autoclaved,
35 and wherever else appropriate, the proper time and temperature
exposures, volume, load, and density configurations, packaging,
37 and labeling that shall be utilized.

h. A generator shall certify to the transporter for each
39 collection of special medical waste or general medical waste that

1 the generator has complied with paragraphs (1) and (2) of
2 subsections e. and f. and with subsection g. of this section. No
3 transporter may collect special medical waste or general medical
4 waste from a generator unless the generator has supplied this
5 certification. A facility operator may require a transporter to
6 produce all such pertinent certifications as a condition of
7 accepting special medical waste or general medical waste for
8 disposal.

9 i. A transporter shall certify to the Department of
10 Environmental Protection that the transporter will comply with
11 this act, and any rule or regulation adopted pursuant thereto, and
12 shall disclose to the department the number and types of vehicles
13 utilized by that transporter for the collection of special medical
14 waste or general medical waste and the equipment or methods
15 utilized to ensure secure segregation of such waste.

16 j. A transporter may not transport special medical waste and
17 general medical waste in the same vehicle at the same time
18 unless all of the waste within the vehicle is to be managed and
19 disposed as special medical waste.

20 5. Every generator shall register with the Department of
21 Environmental Protection on a form prescribed by the
22 department, and pay an annual fee therefor in an amount set by
23 the department not to exceed \$100. The generator shall indicate
24 on the registration form the name of every transporter retained
25 by the generator to collect the generator's special medical waste
26 or general medical waste.

27 6. No person may transport either special medical waste or
28 general medical waste unless the person has:

29 a. met such requirements as may be prescribed by the
30 Department of Environmental Protection, and filed a registration
31 statement and obtained approval thereof from the department on
32 a form provided, and containing such information as may be
33 prescribed, by the department, except that a separate
34 registration statement and approval thereof shall be required for
35 the transport of special medical waste and the transport of
36 general medical waste; and

37 b. paid an annual registration fee in an amount set by the
38 Department of Environmental Protection not to exceed \$100; and

39 c. received instruction from the departments on the proper
and safe tracking, identification, packaging, storage, control,

1 monitoring, handling, collection, and disposal of medical waste;
and

3 d. obtained a registration statement required by section 5 of
P.L.1970, c.39 (C.13:1E-5); and

5 e. obtained a certificate of public convenience and necessity
required by section 7 of P.L.1970, c.40 (C.48:13A-6); and

7 f. complied with the requirements of P.L.1983, c.392
(C.13:1E-126 et seq.) concerning the filing of disclosure
9 statements.

7. No person may accept:

11 a. special medical waste or general medical waste for disposal
within the State or for transfer to a disposal site outside the
13 State except upon authorization of the Department of
Environmental Protection;

15 b. special medical waste for disposal within the State or for
transfer to a disposal site outside the State except upon payment
17 of an annual registration fee in an amount set by the Department
of Environmental Protection not to exceed \$100.

19 8. The departments shall provide at least written instruction
on the proper and safe tracking, identification, packaging,
21 storage, control, monitoring, handling, collection, and disposal of
medical waste to every employee of a transporter or facility who
23 may come into contact with special medical waste or general
medical waste. The departments shall also jointly and regularly
25 conduct a course thereon, which all supervisory personnel of a
transporter or facility shall be required to attend.

27 9. Medical waste shall be excluded from district solid waste
management plans adopted pursuant to P.L.1970, c.39 (C.13:1E-1
29 et seq.). The Department of Environmental Protection and the
board shall determine where medical waste may be disposed, and
31 the board shall have jurisdiction over charges or rates assessed
for the transport and disposal of special medical waste or general
33 medical waste. The Department of Environmental Protection and
the board may require any sanitary landfill to accept for disposal
35 medical waste prepared for that purpose in accordance with this
act, and any rule or regulation adopted pursuant thereto, on the
37 same terms as ordinary solid waste.

10. a. There is created the New Jersey Medical Waste Study
39 Commission, which shall comprise nine members, as follows:

- 1 (1) The Commissioners of the Departments of Environmental
Protection and Health or their designated representatives;
- 3 (2) The Attorney General or his designated representative;
- 5 (3) The President of the Board of Public Utilities or his
designated representative; and
- 7 (4) Six citizen members, to be appointed by the Governor with
the advice and consent of the Senate: four of whom shall be
9 selected from the technical, scientific, health, or medical
communities in the State, including two health professionals who
11 are representatives of the hospital industry, one of whom shall be
a representative of the New Jersey Hospital Association; and two
13 of whom shall be representatives of the solid waste collection or
disposal industries in the State.

All of the public members shall serve ex officio.

15 b. Vacancies in the membership of the commission shall be
filled in the same manner as the original appointments were made.

17 c. Members of the commission shall serve without
compensation, but shall be entitled to reimbursement for actual
19 expenses necessarily incurred in carrying out their duties as
members of the commission.

21 d. Appointments to the commission shall be made and qualified
not later than 30 days after the effective date of this act.

23 11. The commission shall hold an organizational meeting
within 30 days of the appointment and qualification of the full
25 membership thereof, and shall elect a chairperson from among its
public members, and a secretary, who need not be a member of
27 the commission.

29 12. It shall be the duty of the commission to study the issue of
medical waste in the State and prepare a comprehensive, State
31 plan addressing the immediate, interim, and long-term needs of
the State with respect to the disposal of medical waste in a
33 manner that will protect the public health and the environment.
The commission, within one year of its first organizational
35 meeting, shall transmit to the Governor and the Legislature its
report and the State plan, which shall include:

37 a. an inventory of the number and types of generators of
medical waste within the State, and of the composition and
quantities of medical waste generated thereby;

39 b. a projection of the number and types of generators of
medical waste within the State in the next 30 years from the

1 effective date of this act, and the composition and quantities of
medical waste to be generated thereby;

3 c. an evaluation of the impact of out-of-State generators upon
the present and future medical waste disposal capacity within the
5 State:

7 d. an evaluation of the status of the medical waste collection
and disposal industries, and whether they are of sufficient size
and competitiveness to meet the needs of the State, and, if not,
9 recommendations of ways to increase the size and
competitiveness thereof;

11 e. an inventory and appraisal, including the identity, location,
and life expectancy, of all solid waste facilities within the State
13 and in nearby states permitted to accept special medical waste or
general medical waste for disposal;

15 f. a recommendation of the medical waste disposal strategy to
be applied in the State, which strategy shall include the maximum
17 practicable use of resource recovery procedures and
consideration of the establishment of regional medical waste
19 disposal facilities; and

21 g. recommendations of any statutory and regulatory changes
deemed necessary to implement the State plan and assure
23 utilization of the most sanitary, efficient, and economical
methods for the tracking, identification, packaging, storage,
control, monitoring, handling, collection, and disposal of medical
25 waste.

27 Upon submission of its report and the State plan, the
commission shall expire.

29 13. The commission shall be entitled to call upon the
assistance of the officers and employees of any State, county, or
municipal department, board, bureau, commission, or agency as it
31 may require and as may be available to it to conduct its work,
and may incur such expenses as it may deem necessary, and as
33 may be within the limit of any funds appropriated or otherwise
made available to it, to fulfill its responsibilities.

35 14. The departments shall seek the cooperation of their
counterparts in the states of New York and Pennsylvania in
37 developing regional medical waste tracking, identification,
packaging, storage, control, monitoring, handling, collection, and
39 disposal procedures consistent with those set forth in this act.
The departments shall prepare, and transmit to the Governor and

1 the Legislature, a report summarizing these discussions, including
recommendations for appropriate executive and legislative action.

3 15. a. This act, and any rule or regulation adopted pursuant
thereto, shall be enforced by the departments and by every local
5 board of health, or county health department, as the case may be.

The departments and the local board of health, or the county
7 health department, as the case may be, shall have the right to
enter the premises of a generator, transporter, or facility at any
9 time in order to determine compliance with this act.

The municipal attorney or an attorney retained by a
11 municipality in which a violation of this act is alleged to have
occurred shall act as counsel to a local board of health.

13 The county counsel or an attorney retained by a county in
which a violation of this act is alleged to have occurred shall act
15 as counsel to the county health department.

All enforcement activities undertaken by county health
17 departments pursuant to this subsection shall conform to all
applicable performance and administrative standards adopted
19 pursuant to section 10 of the "County Environmental Health
Act," P.L. 1977, c. 443 (C. 26:3A2-28).

21 b. Whenever the Commissioner of Environmental Protection or
the Commissioner of Health finds that a person has violated this
23 act, or any rule or regulation adopted pursuant thereto, that
commissioner shall:

25 (1) issue an order requiring the person found to be in violation
to comply in accordance with subsection c. of this section;

27 (2) bring a civil action in accordance with subsection d. of this
section;

29 (3) levy a civil administrative penalty in accordance with
subsection e. of this section;

31 (4) bring an action for a civil penalty in accordance with
subsection f. of this section; or

33 (5) petition the Attorney General to bring a criminal action in
accordance with subsections g. through l. of this section.

35 Pursuit of any of the remedies specified under this section shall
not preclude the seeking of any other remedy specified.

37 c. Whenever the Commissioner of Environmental Protection or
the Commissioner of Health finds that a person has violated this
39 act, or any rule or regulation adopted pursuant thereto, that
commissioner may issue an order specifying the provision or

1 provisions of this act, or the rule or regulation adopted pursuant
thereto, of which the person is in violation, citing the action that
3 constituted the violation, ordering abatement of the violation,
and giving notice to the person of the person's right to a hearing
5 on the matters contained in the order. The ordered party shall
have 20 days from receipt of the order within which to deliver to
7 the commissioner a written request for a hearing. After the
hearing and upon finding that a violation has occurred, the
9 commissioner may issue a final order. If no hearing is requested,
the order shall become final after the expiration of the 20-day
11 period. A request for hearing shall not automatically stay the
effect of the order.

13 d. The Commissioner of Environmental Protection, the
Commissioner of Health, a local board of health, or a county
15 health department may institute an action or proceeding in the
Superior Court for injunctive and other relief, including the
17 appointment of a receiver for any violation of this act, or of any
rule or regulation adopted pursuant thereto, and the court may
19 proceed in the action in a summary manner. In any such
proceeding the court may grant temporary or interlocutory relief,
21 notwithstanding the provisions of R.S. 48:2-24.

Such relief may include, singly or in combination:

- 23 (1) a temporary or permanent injunction;
- 25 (2) assessment of the violator for the costs of any
investigation, inspection, or monitoring survey that led to the
establishment of the violation, and for the reasonable costs of
27 preparing and litigating the case under this subsection;
- 29 (3) assessment of the violator for any cost incurred by the
State in removing, correcting, or terminating the adverse effects
upon environmental quality or public health resulting from any
31 violation of this act, or any rule or regulation adopted pursuant
thereto, for which the action under this subsection may have been
33 brought;
- 35 (4) assessment against the violator of compensatory damages
for any loss or destruction of wildlife, fish or aquatic life, and for
any other actual damages caused by any violation of this act, or
37 any rule or regulation adopted pursuant thereto, for which the
action under this subsection may have been brought.

1 Assessments under this subsection shall be paid to the State
3 Treasurer, or to the local board of health, or to the county health
5 department, as the case may be, except that compensatory
7 damages may be paid by specific order of the court to any
9 persons who have been aggrieved by the violation.

11 If a proceeding is instituted by a local board of health or
13 county health department, notice thereof shall be served upon the
15 commissioners in the same manner as if the commissioners were
17 named parties to the action or proceeding. Either of the
19 departments may intervene as a matter of right in any proceeding
21 brought by a local board of health or county health department.

23 e. Either of the commissioners, as the case may be, may assess
25 a civil administrative penalty of not more than \$50,000 for each
27 violation. Each day that a violation continues shall constitute an
29 additional, separate, and distinct offense. The commissioner may
31 not assess a civil administrative penalty in excess of \$25,000 for
33 a single violation, or in excess of \$2,500 for each day during
35 which a violation continues, until the departments have
37 respectively adopted, pursuant to the "Administrative Procedure
39 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), regulations requiring
 the appropriate commissioner, in assessing a civil administrative
 penalty, to consider the operational history of the violator, the
 severity of the violation, the measures taken to mitigate or
 prevent further violations, and whether the penalty will maintain
 an appropriate deterrent. No assessment may be levied pursuant
 to this section until after the violator has been notified by
 certified mail or personal service. The notice shall include a
 reference to the section of the statute, rule, regulation, or order
 violated, a concise statement of the facts alleged to constitute a
 violation, a statement of the amount of the civil administrative
 penalties to be imposed, and a statement of the party's right to a
 hearing. The ordered party shall have 20 calendar days from
 receipt of the notice within which to deliver to the appropriate
 commissioner a written request for a hearing. After the hearing
 and upon finding that a violation has occurred, that commissioner
 may issue a final order after assessing the amount of the fine
 specified in the notice. If no hearing is requested, the notice
 shall become a final order after the expiration of the 20-day
 period. Payment of the assessment is due when a final order is

1 issued or the notice becomes a final order. The authority to levy
a civil administrative penalty is in addition to all other
3 enforcement provisions in this act, and the payment of any
assessment shall not be deemed to affect the availability of any
5 other enforcement provisions in connection with the violation for
which the assessment is levied. Each department may
7 compromise any civil administrative penalty assessed under this
section in an amount the department determines appropriate.

9 f. A person who violates this act, or any rule or regulation
adopted pursuant thereto, shall be liable to a penalty of not more
11 than \$50,000 per day, to be collected in a civil action commenced
by the Commissioner of Environmental Protection, the
13 Commissioner of Health, a local board of health, or a county
health department.

15 A person who violates an administrative order issued pursuant
to subsection c. of this section, or a court order issued pursuant
17 to subsection d. of this section, or who fails to pay an
administrative assessment in full pursuant to subsection e. of this
19 section is subject upon order of a court to a civil penalty not to
exceed \$100,000 per day of each violation.

21 Of the penalty imposed pursuant to this subsection, 10% or
\$250, whichever is greater, shall be paid to the appropriate
23 department from the General Fund if the Attorney General
determines that a person is entitled to a reward pursuant to
25 section 18 of this act.

Any penalty imposed pursuant to this subsection may be
27 collected, with costs, in a summary proceeding pursuant to "the
penalty enforcement law" (N.J.S. 2A:58-1 et seq.). The Superior
29 Court and the municipal court shall have jurisdiction to enforce
the provisions of "the penalty enforcement law" in connection
31 with this act.

g. A person who purposely or knowingly:

33 (1) disposes or stores special medical waste or general medical
waste without authorization from either the Department of
35 Environmental Protection or the Department of Health, as
appropriate, or in violation of this act, or any rule or regulation
37 adopted pursuant thereto; or

(2) makes any false or misleading statement to any person who
39 prepares any special medical waste or general medical waste

1 application, registration, form, label, certification, coupon,
2 record, report, or other document required by this act, or any
3 rule or regulation adopted pursuant thereto; or

4 (3) makes any false or misleading statement on any special
5 medical waste or general medical waste application, registration,
6 form, label, certification, coupon, record, report, or other
7 document required by this act, or any rule or regulation adopted
8 pursuant thereto; or

9 (4) fails to disinfect or sterilize certain types of special
10 medical waste designated by the Department of Health in a
11 manner prescribed thereby shall, upon conviction, be guilty of a
12 crime of the third degree and, notwithstanding the provisions of
13 N.J.S. 2C:43-3, shall be subject to a fine of not more than
14 \$50,000 for the first offense, and not more than \$100,000 for
15 each subsequent offense, and restitution, in addition to any other
16 appropriate disposition authorized by subsection b. of N.J.S.
17 2C:43-2.

18 h. A person who recklessly or negligently:

19 (1) disposes or stores special medical waste or general medical
20 waste without authorization from either the Department of
21 Environmental Protection or the Department of Health, as
22 appropriate, or in violation of this act, or any rule or regulation
23 adopted pursuant thereto; or

24 (2) makes any false or misleading statement to any person who
25 prepares any special medical waste or general medical waste
26 application, registration, form, label, certification, coupon,
27 record, report, or other document required by this act, or any
28 rule or regulation adopted pursuant thereto; or

29 (3) makes any false or misleading statement on any special
30 medical waste or general medical waste application, registration,
31 form, label, certification, coupon, record, report, or other
32 document required by this act, or any rule or regulation adopted
33 pursuant thereto; or

34 (4) fails to disinfect or sterilize certain types of special
35 medical waste designated by the Department of Health in a
36 manner prescribed thereby shall, upon conviction, be guilty of a
37 crime of the fourth degree.

38 i. A person who, regardless of intent:

39 (1) transports any special medical waste or general medical
40 waste to a facility or any other place in the State that does not

1 have authorization from the Department of Environmental
Protection to accept such waste, or in violation of this act, or
3 any rule or regulation adopted pursuant thereto; or

(2) transports, or receives transported special medical waste
5 or general medical waste without completing and submitting a
coupon in accordance with this act, or any rule or regulation
7 adopted pursuant thereto, shall, upon conviction, be guilty of a
crime of the fourth degree.

9 j. A person who purposely, knowingly, or recklessly:

(1) generates and causes or permits to be transported any
11 special medical waste or general medical waste to a facility or
any other place in the State that does not have authorization
13 from the Department of Environmental Protection to accept such
waste, or in violation of this act, or any rule or regulation
15 adopted pursuant thereto; or

(2) violates any other provision of this act, or any rule or
17 regulation adopted pursuant thereto, for which no other criminal
penalty has been specifically provided for, shall, upon conviction,
19 be guilty of a crime of the fourth degree.

k. All conveyances used or intended for use in the willful
21 discharge, in violation of this act, or any rule or regulation
adopted pursuant thereto, of special medical waste or general
23 medical waste are subject to forfeiture to the State pursuant to
P.L.1981, c.387 (C. 13:1K-1 et seq.).

25 l. The provisions of N.J.S. 2C:1-6 to the contrary
notwithstanding, a prosecution for violation of subsection g.,
27 subsection h., subsection i., or subsection j. of this section shall
be commenced within five years of the date of discovery of the
29 violation.

16. During the first registration year of each applicant, or the
31 year following any violation of this act resulting in a revocation
of registration, the departments may give temporary approval of
33 registrations conditioned upon the applicant's effecting specified
additions, changes, or improvements in methods of operation and
35 equipment within the time and manner as may be required by the
departments. The fee for the temporary approval shall be the
37 same as that established pursuant to this act for the
corresponding regular registration, notwithstanding the length of
39 time for which it is given.

1 17. The departments, after hearing, may revoke or suspend the
2 registration issued to any transporter or facility upon a finding
3 that the transporter or facility has:

4 a. violated this act, or any rule, regulation, or administrative
5 order adopted or issued pursuant thereto; or

6 b. violated any law, or any rule, regulation, or administrative
7 order adopted or issued pursuant thereto, related to pollution of
8 the environment or endangerment of the public health; or

9 c. refused or failed to comply with any lawful order of either
10 of the departments.

11 18. A member of the public who supplies information to an
12 enforcing authority that proximately results in the imposition and
13 collection of a civil penalty as the result of a civil action brought
14 pursuant to subsection f. of section 15 of this act, or any rule or
15 regulation adopted, administrative order issued, or assessment
16 imposed pursuant thereto, shall be entitled to a reward of 10%
17 the civil penalty collected, or \$250, whichever amount is
18 greater. The reward shall be paid by the appropriate department
19 from any money received by the department pursuant to
20 subsection f. of section 15 of this act. The Attorney General
21 shall adopt, pursuant to the "Administrative Procedure Act,"
22 rules and regulations necessary to implement this section,
23 including procedures to provide for the protection of the identity
24 of persons providing information to an enforcing authority
25 concerning a violation of this act in appropriate circumstances.

26 19. The State and any of its political subdivisions, public
27 agencies, and public authorities shall be deemed a person within
28 the meaning of this act.

29 20. The monies collected from the fees imposed pursuant to
30 sections 5, 6, and 7 of this act shall be utilized by the
31 departments to administer and enforce this act, and shall be
32 allocated as follows: 75% to the Department of Environmental
33 Protection and 25% to the Department of Health.

34 21. The departments shall, pursuant to the "Administrative
35 Procedure Act," adopt rules and regulations necessary to
36 implement this act.

37 22. To effectuate the purposes of this act, there is
38 appropriated from the General Fund the sum of \$2,000,000 to the
39 Department of Environmental Protection, the sum of \$700,000 to

1 the Department of Health, and the sum of \$50,000 to the New
Jersey Medical Waste Study Commission.

3 23. Sections 1, 2, 3, 5, 10, 11, 12, 13, 14, 19, 20, 21, and 22 of
5 this act shall take effect immediately, and the remainder of the
7 act shall take effect one year following enactment, except that
the departments may take such administrative measures as may
be necessary to prepare for its implementation.

9

STATEMENT

11

13 This bill would require the Department of Environmental
15 Protection (DEP), in consultation with the Department of Health
17 (DOH), to establish and implement a comprehensive system to
19 provide for the proper and safe tracking, identification,
packaging, storage, control, monitoring, handling, collection, and
disposal of medical waste. The bill would, among other
requirements, incorporate many of the recommendations of a
1987 State grand jury presentment concerning the treatment and
disposal of hospital and infectious waste in the State.

21 The bill would provide for the regulation of two categories of
23 medical waste, special medical waste and general medical waste,
25 produced at hospitals, doctor's and dentist's offices, nursing
27 homes, laboratories, funeral homes, veterinary clinics, and a
variety of other health care facilities. Special medical waste
would include a series of waste items deemed to pose the
greatest potential threat to public health. General medical waste
would be all solid waste, other than special medical waste,
29 dietary waste, office and administrative paper waste, clean
corrugated paper and boxes, and light weight demolition and
31 construction waste, produced by the regulated facilities, the
disposal of which is not otherwise specifically regulated by law.

33 A coupon tracking system would be established for transporters
and disposers of special medical waste or general medical waste.
35 Transporters and disposers of these wastes would also be strictly
regulated.

37 The bill would create a New Jersey Medical Waste Study
Commission to study the issue of medical waste in the State and
39 to prepare a comprehensive, State plan addressing the immediate,

1 interim, and long-term needs of the State with respect to the
2 disposal of medical waste in a manner that will protect the public
3 health and the environment.

4 In order to sustain a viable medical waste transport and
5 disposal industry, medical waste would be excluded from district
6 solid waste management plans adopted pursuant to the "Solid
7 Waste Management Act." The DEP and the Board of Public
8 Utilities (BPU) would determine where medical waste would be
9 disposed, and the BPU would have jurisdiction over charges or
10 rates assessed for the transport and disposal of special medical
11 waste or general medical waste.

12 Violators of the bill's provisions would face stringent civil and
13 criminal penalties.

14 Appropriations of \$2 million to the Department of
15 Environmental Protection, \$700,000 to the Department of Health,
16 and \$50,000 to the study commission are provided to enable the
17 respective agencies to perform the initial responsibilities imposed
18 by this act. Thereafter, the departments' medical waste
19 programs are to be funded by annual fees of up to \$100 imposed
20 upon generators, transporters, and disposers of medical waste.

21

22

ENVIRONMENT

Solid Waste

24

25 The "Comprehensive Medical Waste Management Act";
26 appropriates \$2,750,000.
27

[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2853

STATE OF NEW JERSEY

ADOPTED MAY 16, 1983

Sponsored by Assemblymen VILLANE and LoBIONDO

1 **AN ACT** concerning special medical waste, amending and
supplementing P.L. 1970, c. 39, and making an appropriation.

3

5 **BE IT ENACTED** by the Senate and General Assembly of the
State of New Jersey:

7 1. (New section) This act shall be known and may be cited as
the "Special Medical Waste Manifest Act."

9 2. (New section) As used in this act:

"Department" means the Department of Environmental
Protection.

11 "Facility" means any solid waste facility as defined pursuant
to section 3 of P.L.1970, c.39 (C. 13:1E-1 et seq.) that is located
13 in this or another state and is authorized to treat, recover,
store, dispose of, or otherwise manage special medical waste.

15 "Facility operator" means any person who operates a facility.

17 "Generator" means a hospital, a clinical, pathological or
research laboratory, a medical clinic, and urgent care center, an
ambulatory surgical facility, a nursing home, a community
19 health center, a home health agency, or any like facility
identified by the Department of Health. "Generator" includes
21 any person who stores medical waste for more than 30 days.
"Generator" does not include a dentist's office, a physician's
23 office, a podiatrist's office, or a veterinary's office.

25 "Prospective generator" means any person who becomes a
generator after the effective date of this amendatory and
supplementary act.

27 "Special medical waste" means infectious wastes as defined
by the Department of Health, including liquid or solid
29 microbiological culture media, needles, syringes, and sharps;
pathology specimens, including tissues, organs, body parts, and
31 products of conception; bulk blood, blood products, and body

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
Assembly AAP committee amendments adopted May 16, 1983.

1 fluids at least 20 cubic centimeters in volume, except urine or
2 fecal matter; waste generated from rare or unusual cases
3 involving communicable diseases, as determined by the
4 Department of Health; and carcasses, body parts, and bedding of
5 any research animal that was intentionally exposed to a
6 pathogen.

7 "Special medical waste manifest" or "waste manifest" means
8 a numbered form provided by the department and designed to
9 record information supplied by generators, transporters and
10 facility operators as required pursuant to P.L. c. (C.)
11 (now pending in the Legislature as this bill), or any rules and
12 regulations adopted pursuant thereto.

13 "Transporter" means any person who utilizes a motor vehicle
14 to collect and haul special medical waste.

15 3. (New section) Within 120 days of the effective date of this
16 act, the Department of Environmental Protection, in
17 consultation with the Department of Health, shall formulate
18 and implement, pursuant to the "Administrative Procedure
19 Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), a special medical
20 waste manifest system which shall provide for the control,
21 monitoring, and proper and safe collection, transportation and
22 disposal of special medical waste in this State. The special
23 medical waste manifest system shall include the following
24 provisions:

25 a. All special medical waste released by a generator to a
26 transporter for delivery to a facility shall be accompanied by a
27 special medical waste manifest completed by the generator and
28 transporter, and containing such information as the Department
29 of Environmental Protection may require. Upon accepting a
30 shipment of special medical waste, a transporter shall certify on
31 the waste manifest that he has accepted the shipment of special
32 medical waste described by the generator on the waste
33 manifest. After releasing a shipment of special medical waste,
34 the generator shall transmit a copy of the waste manifest to the
35 department, and, if the special medical waste is to be shipped to
36 a facility out of State, the appropriate department in the state
37 in which the facility is located.

38 b. If more than one transporter is engaged in transporting a
39 single shipment of special medical waste to a facility, each

1 transporter shall be required to comply with the requirements of
the special medical waste manifest system.

3 c. Upon delivery of a shipment of special medical waste to a
5 facility, each transporter shall certify on the waste manifest
7 that he has delivered the shipment of special medical waste to
9 the facility indicated on the waste manifest by the generator,
11 and the facility operator shall certify that he has received the
shipment of special medical waste, and list any discrepancies
between the shipment as described on the waste manifest and
the shipment received. The transporter shall forward copies of
the completed waste manifest to the department and to the
generator.

13 d. All generators, transporters, and facility operators shall
15 keep complete records of all transactions involving special
17 medical waste which come under the purview of the special
medical waste manifest system. These records shall be made
available to the department upon request.

19 4. a. (New section) Every generator or prospective generator
21 shall register with the department, on a form provided by the
23 department, a notice of intent to generate special medical
25 waste. This notice shall include an estimate of the type and
quantity of special medical waste to be generated on a quarterly
basis, and a statement as to whether the special medical waste
is to be treated and disposed of on site or removed and
transported to a facility for treatment and disposal. Generators
shall comply with the provisions of this subsection within 30
27 days of the effective date of P.L. ,c. (C.) (now
pending in the Legislature as this bill). Prospective generators
29 shall comply with the provisions of this subsection at least 30
days prior to the date on which they expect to commence
31 generation of special medical waste.

33 b. Every generator shall transmit to the department, on or
before the twentieth of January, April, July, and October of
35 each year, a report listing by special medical waste manifest
37 number all waste manifests issued during the preceding three
calendar months, including an identification of those shipments
of special medical waste which were rejected in whole or in part
by a facility operator.

39 c. Every generator who stores special medical waste on-site

1 for more than 30 days, or who treats or disposes of special
2 medical waste on-site, shall transmit to the department by the
3 twentieth day of January, April, July, and October of each year
4 a report listing by waste type the quantities of special medical
5 waste so stored, and, if applicable, the methods of treatment or
6 disposal utilized during the preceding three months.

7 d. Every facility shall submit to the department, on or before
8 the twentieth of January, April, July, and October of each year
9 (1) a report listing all shipments of special medical waste
10 received, rejected in whole or in part, or which did not match
11 the description on the accompanying waste manifest; (2) a
12 report itemizing the total quantity of each type of special
13 medical waste accepted, and the quantities consigned to each
14 kind of treatment, recovery, or disposal process, including the
15 quantities of each type of special medical waste placed into
16 storage or removed from storage during the reporting period;
17 and (3) a report itemizing for each treatment or recovery
18 process utilized, the total quantity of special medical waste
19 processed, the total quantity of residue from the process, the
20 method of disposal of the residue, and the amount of material
21 recovered.

22 5. (New section) a. No person shall engage in transporting
23 special medical waste in this State unless he has:

24 (1) Obtained a registration statement required by section 5 of
25 P.L.1970, c.39 (C.13:1E-5);

26 (2) Obtained a certificate of public convenience and necessity
27 required by section 7 of P.L.1970, c.40 (C.48:13A-6); and

28 (3) Complied with the requirements of P.L.1983, c.392 (C.
29 13:1E-126 et seq.) concerning the filing of disclosure statements.

30 b. A person storing or transporting special medical waste
31 shall store or transport special medical waste separate from any
32 other solid waste. Special medical waste shall not be stored for
33 a period longer than that prescribed by the Department of
34 Health.

35 6. (New section) Special medical waste shall be incinerated in
36 a facility approved therefor by the department, or otherwise
37 destroyed or disposed of in a manner provided by law or
38 prescribed by the department. No special medical waste may be
39 disposed of in a sanitary landfill facilities unless it has been

1 sterilized or disinfected by the generator in a manner prescribed
2 by the Department of Health. Special medical waste disposed of
3 in a sanitary landfill shall be segregated from other solid waste
and immediately covered.

5 7. (New section) Within 120 days of the effective date of this
6 act, the Department of Environmental Protection and the
7 Department of Health shall adopt, in accordance with the
"Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-1 et
9 seq.), rules and regulations necessary or appropriate for
10 implementation of the provisions of sections 2 through 6 of
11 P.L. c. (C.) (now pending in the Legislature as
this bill).

13 8. Section 3 of P.L. 1970, c. 39 (C. 13:1E-3) is amended to
read as follows:

15 3. For purposes of this act, unless the context clearly
requires a different meaning:

17 a. "Solid waste" means garbage, refuse, and other discarded
18 materials resulting from industrial, commercial and agricultural
19 operations, and from domestic and community activities, and
shall include all other waste materials including liquids, except
21 for solid animal and vegetable wastes collected by swine
producers licensed by the State Department of Agriculture to
22 collect, prepare and feed such wastes to swine on their own
farms.

25 b. "Solid waste collection" means the activity related to
pick-up and transportation of solid waste from its source or
27 location to a disposal site or to a resource recovery facility.

29 c. "Disposal" means the storage, treatment, utilization,
processing, resource recovery of, or the discharge, deposit,
31 injection, dumping, spilling, leaking or placing of any solid or
hazardous waste into or on any land or water, so that the solid
or hazardous waste or any constituent thereof may enter the
33 environment or be emitted into the air or discharged into any
waters, including groundwaters.

35 d. "Solid waste management" includes all activities related
to the collection and disposal of solid waste by any person
37 engaging in such process.

39 e. "Council" means the Advisory Council on Solid Waste
Management.

1 f. "Department" means the State Department of
Environmental Protection.

3 g. "Commissioner" means the Commissioner of
Environmental Protection in the State Department of
5 Environmental Protection.

7 h. "Solid waste facilities" mean and include the plants,
structures and other real and personal property acquired,
constructed or operated or to be acquired, constructed or
9 operated by any person pursuant to the provisions of this or any
other act, including transfer stations, incinerators, resource
11 recovery facilities, sanitary landfill facilities or other plants for
the disposal of solid waste, and all vehicles, equipment and other
13 real and personal property and rights therein and appurtenances
necessary or useful and convenient for the collection or disposal
15 of solid waste in a sanitary manner.

17 i. "Public authority" means any solid waste management
authority created pursuant to the "solid waste management
authorities law," P.L. 1968, c. 249 (C. 40:66A-32 et seq.);
19 municipal utility authority created pursuant to the "municipal
and county utilities authorities law," P.L. 1957, c. 183 (C.
21 40:14B-1 et seq.); incinerator authority created pursuant to the
"incinerator authorities law," P.L. 1948, c. 348 (C. 40:66A-1 et
23 seq.); county improvement authority created pursuant to the
"county improvement authorities law," P.L. 1960, c. 183 (C.
25 40:37A-44 et seq.), or any other public body corporate and
politic created for solid waste management purposes in any
27 county or municipality, pursuant to the provisions of any law.

29 j. "Hackensack Meadowlands District" means the area within
the jurisdiction of the Hackensack Meadowlands Development
Commission created pursuant to the provisions of the
31 "Hackensack Meadowlands Reclamation and Development Act,"
P.L. 1963, c. 404 (C. 13:17-1 et seq.).

33 k. "Hackensack Commission" means the Hackensack
Meadowlands Development Commission created pursuant to the
35 provisions of the "Hackensack Meadowlands Reclamation and
Development Act," P.L. 1963, c. 404 (C. 13:17-1 et seq.).

37 l. "Existing solid waste facility" means that portion of an
active solid waste facility which, on the effective date of this
39 act, possesses a valid approved registration from the department.

1 m. "New solid waste facility" means any solid waste facility
or portion thereof which does not qualify as an existing solid
3 waste facility.

n. "Public sewage treatment plant" means any structure or
5 structures required to be approved by the department pursuant
to P.L. 1977, c. 224 (C. 58:12A-1 et seq.) or P.L. 1977, c. 74 (C.
7 58:10A-1 et seq.), by means of which domestic wastes are
subjected to any artificial process in order to remove or so alter
9 constituents as to render the waste less offensive or dangerous
to the public health, comfort or property of any of the
11 inhabitants of this State, before the discharge of the plant
effluent into any of the waters of this State; this definition
13 includes plants for the treatment of industrial wastes, as well as
a combination of domestic and industrial wastes.

15 o. "Resource recovery" means the collection, separation,
recycling and recovery of metals, glass, paper and other
17 materials for reuse or for energy production.

p. "Recycling facility" means any solid waste facility utilized
19 to separate or process solid waste into marketable materials.

q. "Sanitary landfill facility" means a solid waste facility at
21 which solid waste is deposited on or in the land as fill for the
purpose of permanent disposal or storage for a period exceeding
23 six months, except that it shall not include any waste facility
approved for disposal of hazardous waste.

25 r. "Transfer station" means a solid waste facility at which
solid waste is transferred from a solid waste collection vehicle
27 to a solid waste haulage vehicle for transportation to a sanitary
landfill facility, resource recovery facility, or other destination.

29 s. "Special medical waste" means special medical wastes as
defined in section 2 of P.L. 19 , c. . . . (C.) (now
31 pending in the Legislature as this bill).

33 t. "Special medical waste manifest" means the form and
information contained thereon required for the collection,
transportation and disposal of special medical waste pursuant to
35 the provisions of P.L. , c. . . . (C.) (now
pending in the Legislature as this bill).

37 (cf: P.L. 1987, c. 449, s. 1)

39 9. Section 9 of P.L. 1970, c. 39 (C. 13:1E-9) is amended to
read as follows:

1 9. a. All codes, rules and regulations adopted by the
2 department related to solid waste, or related to special medical
3 waste, in accordance with the provisions of P.L. c.
4 (C.) (now pending in the Legislature as this bill), shall
5 have the force and effect of law. Such codes, rules and
6 regulations shall be observed throughout the State and shall be
7 enforced by the department and by every local board of
8 health, or county health department, as the case may be.

9 The department and the local board of health, or the county
10 health department, as the case may be, shall have the right to
11 enter a solid waste facility at any time in order to determine
12 compliance with the registration statement and engineering
13 design, and with the provisions of all applicable laws or rules and
14 regulations adopted pursuant thereto.

15 The municipal attorney or an attorney retained by a
16 municipality in which a violation of such laws or rules and
17 regulations adopted pursuant thereto is alleged to have occurred
18 shall act as counsel to a local board of health.

19 The county counsel or an attorney retained by a county in
20 which a violation of such laws or rules and regulations adopted
21 pursuant thereto is alleged to have occurred shall act as counsel
22 to the county health department.

23 Any county health department may charge and collect from
24 the owner or operator of any sanitary landfill facility within its
25 jurisdiction such fees for enforcement activities as may be
26 established by ordinance or resolution adopted by the governing
27 body of any such county. Such fees shall be established in
28 accordance with a fee schedule [regulation] regulation to be
29 adopted by the department, pursuant to law, within 60 days of
30 the effective date of this amendatory act and shall be utilized
31 exclusively to fund such enforcement activities.

32 All enforcement activities undertaken by county health
33 departments pursuant to this subsection shall conform to all
34 applicable performance and administrative standards adopted
35 pursuant to section 10 of the "County Environmental Health
36 Act," P.L. 1977, c. 443 (C. 28:3A2-28).

37 b. Whenever the commissioner finds that a person has
38 violated any provision of P.L. 1970, c. 39 (C. 13:1E-1 et seq.), or
39 any rule or regulation adopted, permit issued, or solid waste

1 management plan adopted pursuant to P.L. 1970, c. 39, or any
2 provision of P.L. ,c. (C.) (now pending in the
3 Legislature as this bill), or any rule or regulation adopted
4 thereunder, he shall:

5 (1) Issue an order requiring the person found to be in violation
6 to comply in accordance with subsection c. of this section;

7 (2) Bring a civil action in accordance with subsection d. of this
8 section;

9 (3) Levy a civil administrative penalty in accordance with
10 subsection e. of this section;

11 (4) Bring an action for a civil penalty in accordance with
12 subsection f. of this section; or

13 (5) Petition the Attorney General to bring a criminal action in
14 accordance with [subsection] subsections g., h. or i. of this
15 section.

16 Pursuit of any of the remedies specified under this section
17 shall not preclude the seeking of any other remedy specified.

18 c. Whenever the commissioner finds that a person has
19 violated any provision of P.L. 1970, c. 39, or any rule or
20 regulation adopted, permit issued, or solid waste management
21 plan adopted pursuant to P.L. 1970, c. 39, ¹or any provision of
22 P.L. ,c. (C.) (now pending in the Legislature as this
23 bill), or any rule or regulation adopted thereunder,¹ he may issue
24 an order specifying the provision or provisions of P.L. 1970, [a.]
25 c. 39, or the rule, regulation, permit or solid waste management
26 plan, or of P.L. c. (C.) (now pending in the
27 Legislature as this bill), or any rule or regulation adopted
28 thereunder, of which the person is in violation, citing the action
29 which constituted the violation, ordering abatement of the
30 violation and giving notice to the person of his right to a hearing
31 on the matters contained in the order. The ordered party shall
32 have 20 days from receipt of the order within which to deliver
33 to the commissioner a written request for a hearing. After the
34 hearing and upon finding that a violation has occurred, the
35 commissioner may issue a final order. If no hearing is
36 requested, then the order shall become final after the expiration
37 of the 20-day period. A request for hearing shall not
38 automatically stay the effect of the order.

39 d. The commissioner, a local board of health or county health

1 department may institute an action or proceeding in the
Superior Court for injunctive and other relief, including the
3 appointment of a receiver for any violation of this act, or of any
code, rule or regulation promulgated, permit issued or solid
5 waste management plan adopted pursuant to this act, or of
P.L. c. (C.) (now pending in the Legislature as
7 this bill), or any rule or regulation adopted thereunder, and said
court may proceed in the action in a summary manner. In any
9 such proceeding the court may grant temporary or interlocutory
relief, notwithstanding the provisions of R.S. 48:2-24.

11 Such relief may include, singly or in combination:

(1) A temporary or permanent injunction;

13 (2) Assessment of the violator for the costs of any
investigation, inspection, or monitoring survey which led to the
15 establishment of the violation, and for the reasonable costs of
preparing and litigating the case under this subsection;

17 (3) Assessment of the violator for any cost incurred by the
State in removing, correcting or terminating the adverse effects
19 upon water and air quality resulting from any violation of any
provision of this act or any rule, regulation or condition of
21 approval or of P.L. c. (C.) (now pending in the
Legislature as this bill), or any rule or regulation adopted
23 thereunder, for which the action under this subsection may have
been brought;

25 (4) Assessment against the violator of compensatory damages
for any loss or destruction of wildlife, fish or aquatic life, and
27 for any other actual damages caused by any violation of this act
or any rule, regulation or condition of approval established
29 pursuant to this act, or of P.L. c. (C.) (now
pending in the Legislature as this bill), or any rule or regulation
31 adopted thereunder, for which the action under this subsection
may have been brought. Assessments under this subsection shall
33 be paid to the State Treasurer, or to the local board of health,
or to the county health department, as the case may be, except
35 that compensatory damages may be paid by specific order of the
court to any persons who have been aggrieved by the violation.

37 If a proceeding is instituted by a local board of health or
county health department, notice thereof shall be served upon
39 the commissioner in the same manner or as if the commissioner

1 were a named party to the action or proceeding. The
2 department may intervene as a matter of right in any
3 proceeding brought by a local board of health or county health
4 department.

5 e. The commissioner is authorized to assess a civil
6 administrative penalty of not more than \$50,000.00 for each
7 violation provided that each day during which the violation
8 continues shall constitute an additional, separate and distinct
9 offense. The commissioner shall not assess a civil
10 administrative penalty in excess of \$25,000.00 for a single
11 violation, or in excess of \$2,500.00 for each day during which a
12 violation continues, until the department has adopted, pursuant
13 to the "Administrative Procedure Act," P.L. 1968, c. 410 (C.
14 52:14B-1 et seq.), regulations requiring the commissioner, in
15 assessing a civil administrative penalty, to consider the
16 operational history of the facility at which the violation
17 occurred, the severity of the violation, the measures taken to
18 mitigate or prevent future violations, and whether the penalty
19 will maintain an appropriate deterrent. No assessment shall be
20 levied pursuant to this section until after the violator has been
21 notified by certified mail or personal service. The notice shall
22 include a reference to the section of the statute, rule,
23 regulation, order, permit condition or solid waste management
24 plan violated, a concise statement of the facts alleged to
25 constitute a violation, a statement of the amount of the civil
26 administrative penalties to be imposed, and a statement of the
27 party's right to a hearing. The ordered party shall have 20
28 calendar days from receipt of the notice within which to deliver
29 to the commissioner a written request for a hearing. After the
30 hearing and upon finding that a violation has occurred, the
31 commissioner may issue a final order after assessing the amount
32 of the fine specified in the notice. If no hearing is requested,
33 the notice shall become a final order after the expiration of the
34 20-day period. Payment of the assessment is due when a final
35 order is issued or the notice becomes a final order. The
36 authority to levy a civil administrative penalty is in addition to
37 all other enforcement provisions in P.L. 1970, c. 39, and the
38 payment of any assessment shall not be deemed to affect the
39 availability of any other enforcement provisions in connection

1 with the violation for which the assessment is levied. The
2 department may compromise any civil administrative penalty
3 assessed under this section in an amount the department
determines appropriate.

5 f. Any person who violates the provisions of this act or any
code, rule or regulation promulgated pursuant to this act, or of
7 P.L. c. (C.) (now pending in the Legislature as
this bill), or any rule or regulation adopted thereunder, shall be
9 liable to a penalty of not more than \$50,000.00 per day to be
collected in a civil action commenced by a local board of health,
11 a county health department, or the commissioner.

Any person who violates an administrative order issued
13 pursuant to subsection c. of this section, or a court order issued
pursuant to subsection d. of this section, or who fails to pay an
15 administrative assessment in full pursuant to subsection e. of
this section is subject upon order of a court to a civil penalty
17 not to exceed \$100,000.00 per day of such violations.

Of the penalty imposed pursuant to the subsection, 10% or
19 \$250.00, whichever is greater, shall be paid to the department
from the General Fund if the Attorney General determines that
21 a person is entitled to a reward pursuant to section 2 of P.L.
1987, c. 158 (C. 13:1E-9.2) [(Now pending before the
23 Legislature as this bill)].

Any penalty imposed pursuant to this subsection may be
25 collected with costs in a summary proceeding pursuant to "the
penalty enforcement law" (N.J.S. 2A:58-1 et seq.). The Superior
27 Court and the municipal court shall have jurisdiction to enforce
the provisions of "the penalty enforcement law" in connection
29 with this act.

g. Any person who knowingly:

31 (1) Transports any hazardous or medical waste to a facility or
any other place which does not have authorization from the
33 department to accept such waste;

35 (2) Generates and causes or permits to be transported any
hazardous or special medical waste to a facility or any other
place which does not have authorization from the department to
37 accept such waste;

39 (3) Disposes, treats, stores or transports hazardous or special
medical waste without authorization from the department;

1 (4) Makes any false or misleading statement to any person who
prepares any hazardous or special medical waste application,
3 label, manifest, record, report, design or other document
required to be submitted to the department; or

5 (5) Makes any false or misleading statement on any hazardous
or special medical waste application, label, manifest, record,
7 report, design or other document required to be submitted to the
department shall, upon conviction, be guilty of a crime of the
9 third degree and, notwithstanding the provisions of N.J.S.
2C:43-3, shall be subject to a fine of not more than \$50,000.00,
11 for the first offense and not more than \$100,000.00 for the
second and each subsequent offense and restitution, in addition
13 to any other appropriate disposition authorized by subsection b.
on N.J.S. 2C:43-2.

15 h. Any person who recklessly:

(1) Transports any hazardous or special medical waste to a
17 facility or any other place which does not have authorization
from the department to accept such waste;

19 (2) Generates and causes or permits to be transported any
hazardous or special medical waste to a facility or any other
21 place which does not have authorization from the department to
accept such waste;

23 (3) Disposes, treats, stores or transports hazardous or special
medical waste without authorization from the department;

25 (4) Makes any false or misleading statement to any person who
prepares any hazardous or special medical waste application,
27 label, manifest, record, report, design or other document
required to be submitted to the department; or

29 (5) Makes any false or misleading statement on any hazardous
or special medical waste application, label, manifest, record,
31 report, design or other document required to be submitted to the
department, shall, upon conviction, be guilty of a crime of the
33 fourth degree.

i. Any person who, regardless of intent, generates and causes
35 or permits any hazardous or special medical waste to be
transported, transports, or receives transported hazardous or
37 special medical waste without completing and submitting to the
department a hazardous or special medical waste manifest in
39 accordance with the provisions of this act or any rule or

1 regulation adopted pursuant hereto shall, upon conviction, be
guilty of a crime of the fourth degree.

3 j. All conveyances used or intended for use in the willful
discharge, in violation of the provisions of P.L. 1970, c. 39 (C.
5 13:1E-1 et seq.), of any solid waste, special medical waste, or
hazardous waste as defined in P.L. 1976, c. 99 (C. 13:1E-38 et
7 seq.) are subject to forfeiture to the State pursuant to the
provisions of P.L. 1981, c. 387 (C. 13:1K-1 et seq.).

9 k. The provisions of N.J.S. 2C:1-6 to the contrary
notwithstanding, a prosecution for a violation of the provisions
11 of subsection g., subsection h. or subsection i. of this section
shall be commenced within five years of the date of discovery of
13 the violation.

(cf. P.L. 1987, c. 158, s. 1)

15 ¹10. (New section) Special medical waste generated by
generators as defined in section 2 of this act shall be excluded
17 from district solid waste management plans adopted pursuant to
P.L. 1970, c. 39 (C.13:1E-1 et seq.). The Department of
19 Environmental Protection and the Board of Public Utilities shall
have jurisdiction over charges or rates assessed for the transport
21 and disposal of that waste. Generators are allowed to annually
estimate their waste disposal costs within a rate year and allow
23 that amount to be included in the establishment of their
approved rates for that year, which will be subject to
25 reconciliation as actual expenses upon final reconciliation or
audit.¹

27 ¹[10.] 11.¹ The Department of Environmental Protection shall
seek the cooperation of its counterparts in the states of New
29 York and Pennsylvania in developing regional special medical
waste control, monitoring, collection, transportation and
31 disposal systems or procedures consistent with those forth in
sections 1 through 7 of this act. The department shall prepare
33 and transmit, within 24 months of the effective date of this act,
a report to the Governor and Legislature summarizing its
35 discussion with the other states, and setting forth its
recommendations on executive and legislative action required to
37 achieve cooperation.

¹[11.] 12.¹ There is appropriated from the General Fund the
39 sum of \$1,000,000 for implementation of the provisions of this

1 act. Of the amount herewith appropriated, \$750,000 is
2 appropriated to the Department of Environmental Protection
3 and \$250,000 is appropriated to the Department of Health.

4 ¹[12.] 13.¹ This act shall take effect 120 days following
5 enactment.

7

ENVIRONMENT

9

Solid Waste

11 Regulating the collection, transportation and disposal of special
medical waste and making an appropriation.

ASSEMBLY ENVIRONMENTAL QUALITY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2853

STATE OF NEW JERSEY

DATED: MAY 10, 1988

The Assembly Committee Substitute for Assembly Bill No. 2853 is reported without recommendation by the committee.

This bill regulates the collection, transportation, disposal of special medical waste generated by hospitals, various types of laboratories, and other designated health facilities.

Section 2 of the bill defines special medical waste as infectious wastes and body parts. Section 3 provides that special medical wastes of designated generators released to transporters shall be accompanied by a special medical waste manifest prescribed by the Department of Environmental Protection (DEP). The manifest is to be completed by the generator, transporter and the disposal facility, each certifying the nature of special medical waste involved in each shipment, copies of which shall be provided to DEP. Section 4 requires generators to register with DEP and to provide estimates of the type and quantity of special medical waste to be generated on a quarterly basis, and indicate whether the special medical waste is to be disposed of on-site or transported elsewhere for disposal. Persons who store special medical waste for a designated period of time or dispose of the waste on-site are required to make periodic reports to DEP. Solid waste facilities are also required to file quarterly reports with DEP on special medical waste received and the manner of disposition.

Section 5 requires persons engaged in transporting special medical waste to obtain a registration statement from DEP, to file disclosure statements therewith, and to obtain a certificate of public convenience and necessity from the Board of Public Utilities. The section also requires that special medical waste be stored or transported separate from other wastes and that the Department of Health determine the period of time that special medical waste may be stored.

Section 6 requires that special medical waste be incinerated in a facility approved by DEP or otherwise be disposed of in a manner provided by law or prescribed by the DEP. Disposal in a sanitary landfill is prohibited unless the waste has been sterilized or

disinfected, and then only if segregated at the landfill from other solid waste, and immediately covered.

Section 9 of the bill extends to solid waste transportation and disposal the applicable penalty provisions of the Solid Waste Management Act. Section 10 of the bill requires DEP to enter into discussions with the states of New York and Pennsylvania for the purpose of developing a regional system of special medical waste regulation. The department is required to report back to the Governor and the Legislature on its efforts within 24 months of the enactment of the bill, and to provide its recommendations on regional cooperation.

The bill appropriates \$1,000,000 for the implementation of the provisions of the bill, of which DEP will receive \$750,000 and the Department of Health \$250,000.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2853

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 11, 1988

The Assembly Appropriations Committee favorably reports Assembly Bill No. 2853 Acs with committee amendments.

Assembly Bill No. 2853 Acs as amended, regulates the collection, transportation and disposal of special medical waste generated by hospitals, various types of laboratories and other designated health facilities.

The bill defines special medical waste and provides that these wastes of designated generators released to transporters be accompanied by a special medical waste manifest prescribed by the Department of Environmental Protection (DEP). Generators shall register with DEP, estimate type and quantity of this waste quarterly, and indicate if this waste is to be disposed of on-site or transported elsewhere.

Persons engaged in transporting this waste shall register with DEP, file disclosure statements, and obtain a certificate of public convenience and necessity from the Board of Public Utilities (BPU). This type of waste shall be stored or transported separate from other wastes and the Department of Health shall determine the period of time that this waste may be stored. This waste shall be incinerated in a DEP approved facility or disposed of in a manner provided by law. Disposal in a sanitary landfill is prohibited unless this waste has been sterilized or disinfected, segregated at the landfill, and immediately covered. The bill extends applicable penalty provisions of the Solid Waste Management Act. The bill requires DEP to discuss with the states of New York and Pennsylvania development of a regional special medical waste system. DEP is required to report to the Governor and the Legislature within 24 months and provide recommendations.

FISCAL IMPACT:

There is an appropriation of \$1,000,000, of which 75% is for the Department of Environmental Protection and 25% is for the Department of Health.

COMMITTEE AMENDMENTS:

The Committee amended the bill to include language which: excludes special medical waste from district solid waste management plans; have DEP and the BPU assess charges or rates to transport or dispose of this waste; and allow generators to annually estimate their costs in the establishment of their approved rates.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE
FOR

SENATE, No. 2343 and ASSEMBLY, No. 2853 ACS 1R

STATE OF NEW JERSEY

DATED: JUNE 16, 1988

The Senate Committee Substitute for Senate Bill No. 2343 and Assembly No. 2853 ACS 1R would require the Department of Environmental Protection (DEP), in consultation with the Department of Health (DOH), to establish and implement a comprehensive system to provide for the proper and safe tracking, identification, packaging, storage, control, monitoring, handling, collection, and disposal of special medical waste.

The bill would provide for the regulation of special medical waste produced at hospitals, doctors' offices, nursing homes, laboratories, veterinary clinics, and a variety of other health care facilities. Dentists' offices, podiatrists' offices, and home health agencies would not be subject to the provisions of this bill. Special medical waste would include a series of waste items deemed to pose the greatest potential threat to public health.

A coupon tracking system would be established for transporters and disposers of special medical waste or general medical waste. Transporters and disposers of these wastes would also be strictly regulated.

The committee substitute also would create a New Jersey Medical Waste Study Commission to study the issue of medical waste in the State and to prepare a comprehensive, State plan addressing the immediate, interim, and long-term needs of the State with respect to the disposal of special medical waste in a manner that will protect the public health and the environment.

The committee substitute would also exclude special medical waste from district solid waste management plans adopted pursuant to the "Solid Waste Management Act". The DEP and the Board of Public Utilities (BPU) would determine where medical waste would be disposed, and the BPU would have jurisdiction over charges or rates assessed for the transportation and disposal of special medical waste.

Violators of the bill's provisions would be subject to civil administrative and civil penalties of up to \$50,000.00, and criminal penalties for knowing, reckless, or negligent violations of the bill.

The committee substitute also appropriates \$750,000 to the Department of Environmental Protection, \$250,000 to the Department of Health, and \$50,000 to the New Jersey Medical Waste Study Commission are provided to enable the respective agencies to perform the initial responsibilities imposed by this act. Thereafter, the departments' medical waste programs are to be funded by annual fees of up to \$100 imposed upon generators, transporters, and disposers of medical waste.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 2343 and ASSEMBLY, No. 2853 (ACS/1R)

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 20, 1988

The Senate Energy and Environment Committee favorably reports Senate Bill No. 2343 and Assembly Bill No. 2853(ACS/1R) SCS ACS with Senate committee amendments.

As amended by the Committee, this bill would require the Department of Environmental Protection (DEP), in consultation with the Department of Health (DOH), to establish and implement a comprehensive system to provide for the proper and safe tracking, identification, packaging, storage, control, monitoring, handling, collection, and disposal of special medical waste. This manifest system would be required to comply with the provisions of any appropriate federal law or rules or regulations adopted pursuant thereto.

The bill would provide for the regulation of special medical waste produced at hospitals, doctors' and dentists' offices, nursing homes, laboratories, veterinary clinics, and a variety of other health care facilities. Households utilizing home self-care would, however, not be subject to the provisions of this act. Special medical waste would include a number of wastes deemed to pose the greatest potential threat to public health.

A manifest system would be established that would track special medical waste from the point of generation to the point of ultimate disposal. Generators, transporters and disposers of these wastes would also be strictly regulated. The DEP and the Board of Public Utilities (BPU) would determine where medical waste would be disposed, and the BPU would have jurisdiction over charges or rates assessed for the transportation and disposal of special medical waste. This bill would also require counties to provide for the management and disposal of special medical waste in their district solid waste management plans.

This bill would also create a New Jersey Medical Waste Study Commission to study the issue of medical waste and prepare a

comprehensive State plan addressing the immediate, interim, and long-term needs of the State with respect to the disposal of special medical waste in a manner that will protect the public health and the environment.

Violators of the bill's provisions would be subject to civil administrative and civil penalties of up to \$50,000.00, and criminal penalties for knowing, reckless, or negligent violations of the bill.

This bill also appropriates \$750,000 to the Department of Environmental Protection, \$250,000 to the Department of Health, and \$50,000 to the New Jersey Medical Waste Study Commission to enable the respective agencies to perform the initial responsibilities imposed by this act. Thereafter, the departments' medical waste programs are to be funded by annual fees of up to \$500.00 imposed upon generators, transporters, and disposers of medical waste.

In addition this bill directs the DEP to establish a schedule of registration fees ranging from \$100 to \$500, and provides a liability provision in section 16 that makes persons whose violations of the provisions of this act proximately result in a discharge of special medical waste into the waters or onto the land of this State strictly liable, jointly and severally, for all costs associated with the cleanup and removal of the discharge.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2343 and ASSEMBLY, No. 2853 ACS 1R

with Senate committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 4, 1988

The Senate Revenue, Finance and Appropriations Committee reported the Senate Committee Substitute for Senate Bill No. 2343 and Assembly No. 2853 ACS 1R favorably, with committee amendments.

Senate Committee Substitute for Senate Bill No. 2343 and Assembly No. 2853 ACS 1R, as amended, requires the Department of Environmental Protection (DEP), in consultation with the Department of Health, to establish and implement a comprehensive system to provide for the proper and safe tracking, identification, packaging, storage, control, monitoring, handling, collection, and disposal of special medical waste. The bill also appropriates \$1,050,000 to effectuate the purposes thereof.

The bill, as amended, provides for the regulation of special medical waste produced at hospitals, doctor's offices, dentist's offices, nursing homes, laboratories, veterinary clinics, and a variety of other health care facilities. Podiatrists' offices and home health care agencies are not subject to the provisions of this bill. Special medical waste is defined to include a series of waste items deemed to pose the greatest potential threat to public health.

The bill creates a New Jersey Medical Waste Study Commission to study the issue of medical waste in the State and to prepare a comprehensive, State plan addressing the immediate, interim, and long-term needs of the State with respect to the disposal of special medical waste in a manner that will protect the public health and the environment.

In addition, the bill excludes special medical waste from district solid waste management plans adopted pursuant to the "Solid Waste Management Act." The DEP and the Board of Public Utilities (BPU) are to determine where medical waste would be disposed, and the BPU would have jurisdiction over charges or rates assessed for the transportation and disposal of special medical waste.

Violators of the bill's provisions would be subject to civil administrative and civil penalties of up to \$50,000, and criminal penalties for knowing, reckless, or negligent violations of the bill. No prosecution for violation of the provisions of the bill would preclude prosecution under any other applicable statute.

COMMITTEE AMENDMENTS

At the request of the Attorney General, the committee amendments provide that no prosecution for violation of the provisions of the bill shall preclude prosecution for the violation of any other statute. Also at his request, the definition of special medical waste is amended to include any disposable substance that has been exposed to blood or body fluids as may be determined by the Commissioner of Health. The Committee also amended the definition to clarify the types of pathology specimens that are considered special medical waste.

At the request of the Commissioner of the Department of Health, language is deleted concerning the "pass through" of increased hospital costs resulting from the provisions of the bill. Instead, the amendment provides that the commissioner shall recommend to the Hospital Rate Setting Commission adjustments to rates based upon expenses arising under the provisions of the bill which are not already reimbursed. The Committee also amended the bill to require the Commissioner of Human Services to recommend to the Division of Medical Assistance and Health Services adjustments to rates under Medicaid resulting from the bill which are not already reimbursed.

The committee amendments also clarify that the provisions of the bill and any rules or regulations promulgated thereunder supersede any local ordinance, rule or regulation regarding the tracking and control of special medical waste.

In addition, the committee amendments provide that before assessing costs for discharges based upon the strict liability provisions, the Department of Environmental Protection shall attempt to determine who caused the illegal discharge of special medical waste and first recover the costs from the party at fault.

Other committee amendments clarify that dentists that generate special medical waste are included in the definition of generator, that the annual fee for generators shall be based upon a sliding scale, and that the departments shall annually report on the

discussions with New York and Pennsylvania concerning regional medical waste control. Finally, the committee amendments clarify the appointment and confirmation of members of the New Jersey Medical Waste Study Commission and make other technical changes.

FISCAL IMPACT

The bill appropriates \$1,050,000 from the General Fund to effectuate the purposes thereof. Of that amount, \$750,000 is for the Department of Environmental Protection, \$250,000 is for the Department of Health and \$50,000 is for the New Jersey Medical Waste Study Commission. These monies are provided to enable the respective agencies to perform the initial responsibilities imposed by this act. Thereafter, the departments' medical waste program are to be funded by annual fees of up to \$100 imposed upon generators, transporters, and disposers of medical waste.

ASSEMBLY ENVIRONMENTAL QUALITY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

[FIRST REPRINT]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 2343 and ASSEMBLY, No. 2853 ACS [1R]

STATE OF NEW JERSEY

DATED: SEPTEMBER 26, 1988

The Assembly Environmental Quality Committee favorably reports Assembly Committee Substitute for the First Reprint of the Senate Committee Substitute for Senate Bill No. 2343 and Assembly Bill No. 2853 ACS [1R].

The Assembly Committee Substitute would require the Department of Environmental Protection (DEP), in consultation with the Department of Health (DOH), to establish and implement a comprehensive system to provide for the proper and safe tracking, identification, packaging, storage, control, monitoring, handling, collection, and disposal of special medical waste.

The bill would provide for the regulation of special medical waste produced at hospitals, doctors' and dentists' offices, nursing homes, laboratories, veterinary clinics, and a variety of other health care facilities. Podiatrists' offices and home health agencies would, however, not be subject to the provisions of this act. Special medical waste would include a number of wastes deemed to pose the greatest potential threat to public health.

A manifest system would be established that would track special medical waste from the point of generation to the point of ultimate disposal. Generators, transporters and disposers of these wastes would also be strictly regulated. The DEP and the Board of Public Utilities (BPU) would determine where medical waste would be disposed, and the BPU would have jurisdiction over charges or rates assessed for the transportation and disposal of special medical waste.

The committee substitute also would create a New Jersey Medical Waste Study Commission to study the issue of medical waste and prepare a comprehensive State plan addressing the immediate, interim, and long-term needs of the State with respect to the disposal of special medical waste in a manner that will protect the public health and the environment.

Violators of the bill's provisions would be subject to civil administrative and civil penalties of up to \$50,000.00, and criminal penalties for knowing, reckless, or negligent violations of the bill.

The Assembly Committee Substitute also appropriates \$750,000 to the Department of Environmental Protection, \$250,000 to the Department of Health, and \$50,000 to the New Jersey Medical Waste Study Commission to enable the respective agencies to perform the initial responsibilities imposed by this act. Thereafter, the departments' medical waste programs are to be funded by annual fees of up to \$500 imposed upon generators, transporters, and disposers of medical waste.

In addition it directs the department to establish a schedule of registration fees ranging from \$100 to \$500, and provides a liability provision in section 16 that makes persons whose violations of the provisions of this act proximately result in a discharge of special medical waste into the waters or onto the land of this State strictly liable, jointly and severally, for all costs associated with the cleanup and removal of the discharge.

ASSEMBLY SOLID WASTE MANAGEMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

[FIRST REPRINT]
ASSEMBLY COMMITTEE SUBSTITUTE FOR

[FIRST REPRINT]
SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 2343 and ASSEMBLY, No. 2853 [1R/ACS]

STATE OF NEW JERSEY

DATED: JANUARY 19, 1989

The Assembly Committee Substitute for Senate Bill No. 2343 and Assembly Bill No. 2853 SCS Sca ACS Sca (1R/ACS) would require the Department of Environmental Protection (DEP), in consultation with the Department of Health (DOH), to establish and implement a comprehensive regulated medical waste management system to provide for the proper and safe manifesting, tracking, identification, packaging, storage, control, monitoring, handling, collection, and disposal of regulated medical waste in this State. This management system would include a requirement that every shipment of regulated medical waste released by any generator to a transporter for delivery to a facility for disposal must be accompanied by a manifest as prescribed by the DEP. The manifest system would be required to comply with the provisions of the federal "Medical Waste Tracking Act of 1988" (Federal Act) or any rules or regulations adopted pursuant thereto.

This bill would provide for the regulation of medical waste produced at hospitals, doctors' and dentists' offices, nursing homes, laboratories, veterinary clinics, and a variety of other health care facilities. Households utilizing home self-care would, however, not be subject to the provisions of this act. Regulated medical waste would include a number of wastes deemed to pose the greatest potential threat to public health, but the DEP and DOH would be authorized to exempt certain types of medical waste that have been properly treated by the generator. The DOH must prescribe which types of regulated medical waste must be treated by a generator and, in the case of regulated medical waste autoclaved, and wherever else appropriate, the proper time and temperature exposures, volume, load, and density configurations, packaging, and labeling that must be utilized.

The ACS requires the DEP and DOH, within one year of the act's effective date, to study the issue of medical waste and prepare a comprehensive State regulated medical waste management plan addressing the State's immediate, interim, and long-term regulated medical waste disposal needs with respect to the disposal of special medical waste in a manner that will protect the public health and the environment.

Prior to the adoption of any rules or regulations by DEP and DOH pursuant to this bill, or the implementation of the comprehensive State regulated medical waste management plan prepared by the departments, or the implementation of any other provisions of this act, the management of regulated medical waste in this State would continue to be governed by the rules and regulations adopted by the DEP on October 7, 1988 pursuant to the provisions of the "Solid Waste Management Act," P L.1970, c.39 (C.13:1E-1 et seq.). These rules and regulations exempted persons generating less than 220 lbs. of medical waste per month from the manifesting requirements. However, the ACS provides that on the effective date of this act all generators, without regard to the quantity of regulated medical waste generated per month, must be subject to the manifesting requirements of the existing rules and regulations.

Further, within 30 days of the adoption by the United States Environmental Protection Agency (EPA) of rules and regulations to implement the Federal Act, the DEP must adopt, without regard to the provisions of the "Administrative Procedure Act," rules and regulations identical to, and as required by, the federal rules and regulations adopted by the EPA. While the Federal Act permits the states to exempt persons generating less than 50 lbs. of medical waste per month from the manifesting requirements, the rules and regulations adopted by the departments to conform to the Federal Act shall require all generators, without regard to the quantity of regulated medical waste generated per month, to comply with the regulated medical waste manifesting requirements included in these rules and regulations.

However, the ACS provides that in preparing the comprehensive State regulated medical waste management plan the departments must include a recommendation with respect to the advisability and practicability and feasibility of exempting certain small quantity generators from the manifest requirements imposed by this act.

Under the ACS, The DEP and the Board of Public Utilities (BPU) would adopt appropriate rules or regulations or issue administrative interdistrict or intradistrict waste flow orders to specify where medical waste would be disposed.

The ACS provides that the BPU would not have jurisdiction over rates or charges for the transportation of regulated medical waste. However, the board would still regulate the fees and charges imposed on the disposal of regulated medical waste at commercial incinerators or commercial disposal facilities. The BPU would not have jurisdiction over rates or charges for the disposal of regulated medical waste imposed by any noncommercial incinerator or noncommercial facility in this State which accepts regulated medical waste for disposal, without regard to whether the regulated medical waste was generated onsite or otherwise.

The ACS would also provide that every existing incinerator or facility in operation as of the act's effective date which accepts regulated medical waste for disposal must be incorporated within the relevant district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), without regard to the conventional plan amendment procedures and provisions of P.L.1975, c.326.

Prior to submission to the Governor and the Legislature of the comprehensive State regulated medical waste management plan prepared by the departments pursuant to section 13 of this act:

(1) no proposed new commercial regulated medical waste disposal facility shall be included within a district solid waste management plan;

(2) the DEP shall not consider any application for, or approve any registration statement or engineering design application required by P.L.1970, c.39 (C.13:1E-1 et seq.) for, a proposed new commercial regulated medical waste disposal facility; and

(3) no State department, division, commission, authority, council, agency, board, or any other political subdivision of the State, or any county or municipality, shall consider any application for, or grant any approval, certificate, license, consent, permit or other authorization for, a proposed new commercial regulated medical waste disposal facility.

However, any county may, consistent with the aforementioned provisions of the ACS and pursuant to the provisions of P.L.1975,

c.326. prepare and adopt an amendment to the district solid waste management plan to provide for the proper and safe disposal of regulated medical waste generated within the district prior to the submission to the Governor and the Legislature of the comprehensive State regulated medical waste management plan. Further, the act does not prohibit the granting of any State, county or municipal approval, certificate, license, consent, permit or other authorization for any proposed noncommercial incinerator or other noncommercial facility in this State that accepts regulated medical waste for disposal.

The comprehensive State regulated medical waste management plan must include:

(1) an inventory of the number and types of generators of regulated medical waste within the State, and of the composition and quantities of regulated medical waste generated thereby;

(2) a projection of the number and types of generators of regulated medical waste within the State for the next 30 years following enactment of this act, and the composition and quantities of regulated medical waste to be generated thereby;

(3) an evaluation of the impact of out-of-state generators upon the present and future regulated medical waste disposal capacity within the State;

(4) an evaluation, to be undertaken in conjunction with the BPU, of the status of the regulated medical waste collection and disposal industries, and whether they are of sufficient size and competitiveness to meet the needs of the State, and, if not, recommendations of ways to increase the size and competitiveness thereof;

(5) an inventory and appraisal, including the identity, location, and life expectancy, of all existing and approved incineration or non-incineration disposal capacity which is anticipated to be available to each county in this State for its regulated medical waste disposal needs, including all commercial and noncommercial regulated medical waste disposal facilities, and solid waste facilities within the State and in nearby states permitted to accept regulated medical waste for disposal;

(6) an updated projection of the anticipated regulated medical waste disposal capacity shortfall in each county in this State in the next 5 years from the date of enactment of this act;

(7) a recommendation of the regulated medical waste disposal

strategy to be applied in the State, which strategy shall include the maximum practicable use of existing and approved incineration capacity for regulated medical waste, particularly pathology specimens, resource recovery procedures, recycling, and consideration of the establishment of regional regulated medical waste disposal facilities;

(8) recommendations of any statutory and regulatory changes deemed necessary to implement the plan and assure utilization of the most sanitary, efficient, and economical methods for the tracking, identification, packaging, storage, control, monitoring, handling, collection, and disposal of regulated medical waste; and

(9) an evaluation of the environmental and public health impacts of all reasonably available regulated medical waste treatment and disposal technologies, and a recommendation concerning the extent to which non-incineration technologies may be utilized as an alternative to incineration technologies.

Upon the submission to the Governor and the Legislature of the comprehensive State regulated medical waste management plan, the DEP shall:

(1) transmit, by certified mail, a written determination of need to the governing body of each county in this State in which the department has determined that there exists or impends an anticipated regulated medical waste disposal capacity shortfall; and

(2) issue, in conjunction with the BPU, appropriate interdistrict or intradistrict waste flow orders directing the flow of regulated medical waste generated within each county in this State to designated commercial regulated medical waste disposal facilities and, subject to the prior approval of the owner or operator thereof, to designated noncommercial facilities for disposal.

In the event that rules and regulations to implement the Federal Act have not been adopted by the EPA prior to the submission to the Governor and the Legislature of the plan, DEP and DOH may adopt, by rule or regulation, regulated medical waste management requirements to provide for the proper and safe segregation, identification, packaging, storage, labeling, control, monitoring, handling, collection, and disposal of regulated medical waste consistent with those set forth in this act.

Within 12 months of the receipt of a written determination of need and notification of a regulated medical waste disposal capacity

shortfall, the governing body of the affected county must provide for the regulated medical waste disposal requirements of the county as determined by the DEP.

A county may provide for its regulated medical waste disposal requirements in accordance with any of the following arrangements:

(1) the development of one or more new commercial regulated medical waste disposal facilities, which facilities may utilize incineration or non-incineration technologies, within the county;

(2) the development of one or more new noncommercial regulated medical waste disposal facilities within the county;

(3) the more efficient utilization of existing operational incinerators or facilities, which incinerators and facilities accept regulated medical waste for disposal and are located within the county; or

(4) the negotiation of an interdistrict agreement providing for the disposal of regulated medical waste generated within the county at an out-of-district incinerator, facility or proposed new commercial regulated medical waste disposal facility, as the case may be. If a county has negotiated an interdistrict agreement, the governing body of the county which is the designated recipient of out-of-district regulated medical waste must transmit to the DEP, by certified mail, a copy of the negotiated or proposed interdistrict agreement and any other agreements therefor, including evidence of the intent of the parties to adopt the agreement, and the terms and conditions thereof.

Each affected county must prepare and adopt an amendment to its district solid waste management plan to incorporate the regulated medical waste disposal arrangement chosen.

Twenty five months following the effective date of this act, the DEP must make a written determination as to whether each county required to provide for its regulated medical waste disposal requirements has selected and implemented an appropriate disposal arrangement. If a county has failed to provide for its regulated medical waste disposal requirements pursuant to this act, the Commissioner of DEP must certify the failure of that county.

Whenever the DEP determines that a county has failed to fulfill its regulated medical waste disposal responsibilities, as certified by the commissioner, the department must hold a public hearing thereon within 30 days of making the determination. At the public hearing,

the relevant county shall have the burden to show that the county has taken timely and significant action toward providing for its regulated medical waste disposal requirements and that the determination of the department is unwarranted. Within 45 days of the conclusion of the hearing, the DEP would make a final determination, subject only to judicial review as provided in the Rules of Court.

In the event that the DEP makes a final determination after the public hearing that a county has failed to fulfill its regulated medical waste disposal responsibilities, the department shall have the power to designate and develop in that county one or more appropriate regulated medical waste disposal facilities, which facilities may utilize incineration or non-incineration technologies, to be utilized by the county or several counties on a regional basis.

The ACS for S-2343/A-2853 SCS Sca ACS Sca (1R/ACS) appropriates \$750,000 to the Department of Environmental Protection, \$250,000 to the Department of Health to enable the respective agencies to perform the initial responsibilities imposed by this act. Thereafter, the departments' medical waste programs are to be funded by annual fees to be imposed upon generators, transporters, and disposers of medical waste pursuant to a fee schedule adopted by rule or regulation. The ACS would also appropriate \$250,000 to DEP and DOH to conduct the study and prepare the comprehensive State regulated medical waste management plan.

The ACS includes a liability provision that makes persons whose violations of the provisions of this act proximately result in a discharge of regulated medical waste into the waters or onto the land of this State strictly liable, jointly and severally, for all costs associated with the cleanup and removal of the discharge.

Violators of the act's provisions would be subject to civil administrative and civil penalties of up to \$50,000.00, and criminal penalties for knowing, reckless, or negligent violations of the act.

The ACS would require every regulated medical waste transporter to obtain a certificate of public convenience and necessity from the BPU and pay an initial and annual renewal fee in an amount set by the board to cover the costs of reviewing the qualifications of registrants, including background investigations, and the costs of compliance monitoring and administration. No person

may transport regulated medical waste unless found by the BPU to be qualified, and until the board issues that person a certificate under P.L. 1970, c. 40.

The ACS provides that a county that is the designated recipient of regulated medical waste pursuant to an interdistrict or intradistrict waste flow order may be entitled to an annual economic benefit in an amount established by agreement with the owner or operator of the facility. If the parties reach an agreement on the amount of a benefit, the owner or operator of the solid waste facility must petition the BPU for an adjustment in its disposal tariff. The petition must be accompanied by a copy of the agreement which reflects the proposed annual payments. The board, within 60 days of the receipt of the petition, must issue an appropriate order that these payments shall be passed along to the users of the facility as an automatic surcharge on the tariff.

The ACS would increase the membership of the statewide Advisory Council on Solid Waste Management (SWAC) to include two health professionals, a representative of the New Jersey Hospital Association and one licensed practitioner selected from the State's medical or dental communities to represent the regulated medical waste generators in the State, and would expand the purview of the SWAC to include consideration of matters pertaining to regulated medical waste. In addition to its existing duties, powers and responsibilities, the new SWAC would be empowered to:

(1) from time to time submit to the Commissioner of DEP recommendations of any statutory and regulatory changes deemed necessary to implement the comprehensive State regulated medical waste management plan; and

(2) study any regulations adopted by the DEP and the DOH concerning the management of regulated medical waste and make its recommendations for their improvement to the commissioner.

The ACS would remove the 18-year old cap on the annual or periodic fees the DEP may in accordance with a fee schedule adopted as a rule or regulation establish and charge for any of the services it performs in connection with the "Solid Waste Management Act," P.L. 1970, c. 39 (C. 13:1E-1 et seq.). The new fee schedule to be adopted by the department must reasonably reflect the duration or complexity of the specific service rendered, permit application reviewed or registration statement or engineering design

application approval sought.

The ACS would also amend P.L.1983, c.392 to clarify that the "A-901" licensing provisions of this act do not apply to any regulated medical waste generator for the treatment or disposal of regulated medical waste at any noncommercial incinerator or noncommercial facility in this State which accepts regulated medical waste for disposal.

**LEGISLATIVE FISCAL ESTIMATE TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2343 and ASSEMBLY, No. 2853 [1R]**

STATE OF NEW JERSEY

DATED: January 12, 1989

Assembly Committee Substitute for the Senate Committee Substitute for Senate Bill No. 2343 and Assembly Bill No. 2853 [1R] requires the Department of Environmental Protection (DEP), in consultation with the Department of Health (DOH), to establish and implement a comprehensive system to provide for the proper and safe tracking, identification, packaging, storage, control, monitoring, handling, collection, and disposal of special medical waste. The bill provides for the regulation of special medical waste produced at hospitals, doctors' and dentists' offices, podiatrists' offices, home health agencies, nursing homes, laboratories, veterinary clinics, and a variety of other health care facilities. A manifest system would be established that would track special medical waste from the point of generation to the point of ultimate disposal. The DEP and the Board of Public Utilities (BPU) would determine where medical waste would be disposed, and the BPU would have jurisdiction over charges or rates assessed for the transportation and disposal of special medical waste.

The committee substitute also creates a New Jersey Medical Waste Study Commission to study the issue of medical waste and, within six months, prepare a comprehensive report addressing the immediate, interim, and long-term needs of the State with respect to the disposal of special medical waste in a manner that will protect the public health and the environment. The commission, upon submission of its report, shall expire.

The committee substitute also appropriates \$750,000 to the Department of Environmental Protection, \$250,000 to the Department of Health, and \$50,000 to the New Jersey Medical Waste Study Commission to enable the respective agencies to perform the initial responsibilities imposed by this act. Thereafter, the departments' medical waste programs are to be funded by annual fees of up to \$500 imposed upon generators, transporters, and disposers of medical waste. In addition it directs the department to establish a schedule of registration fees not to exceed \$500, and provides a liability provision that makes persons whose violations of the provisions of this act proximately result in a discharge of special

ACS to SCS for S2343

medical waste into the waters or onto the land of this State strictly liable for all costs associated with cleanup.

Based on information received from the DEP, the DOH and the BPU, the Office of Legislative Services has developed the following estimate. Requirements of the BPU will be absorbed within its current functions. Because this committee substitute has increased the scope of the Medical Waste Study Commission and halved the time for submission of its report, DEP suggests that as much as \$200,000 may be needed instead of the \$50,000 currently appropriated in the bill. State costs for the remaining half of FY 1989, against which the entire \$1,000,000 remaining appropriation would be allocated are as follows:

	(\$000's)		
	<u>FY89*</u>	<u>FY90</u>	<u>FY91</u>
<u>DOH</u>			
Salaries (16)**	\$ 200	\$400	\$440
Other	<u>50</u>	<u>100</u>	<u>100</u>
Subtotal	\$ 250	\$500	\$540
<u>DEP</u>			
Salaries (61)**	\$ 910	\$1,819	\$2,001
Other	<u>640</u>	<u>1,280</u>	<u>1,280</u>
Subtotal	\$1,550	\$3,099	\$3,281
<u>AG***</u>			
Salaries (3)**	\$ 63	\$ 126	\$ 139
Other	<u>25</u>	<u>50</u>	<u>50</u>
Subtotal	\$ <u>88</u>	\$ <u>176</u>	\$ <u>189</u>
GRAND TOTAL	\$1,888	\$3,775	\$4,010

* six months

** (16) represents number of employees

*** Attorney General

DEP has proposed a sliding fee schedule of from \$260 to \$500 that is projected to yield a maximum of \$6.2 million on an annual basis. Counties will incur additional costs for environmental health planning and enforcement directed by this bill. For example, as DEP has suggested, the employment of two enforcement personnel per solid waste district would cost approximately \$2.2 million, half of which would be chargeable to State funds under the provisions of the

ACS to SCS for S2343

3

County Environmental Health Act. Also, the counties would incur costs in preparing their annual special medical waste management plans.

There will be additional costs to the State that will be paid by the Department of Human Services (DHS), for the Medicaid program. DHS is directed to adjust Medicaid rates in light of the costs of this bill on medical waste generators. The Medicaid program is partially paid from State funds.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.



OFFICE OF THE GOVERNOR

NEWS RELEASE

Governor Thomas H. Kean
TRENTON, N.J. 08625
Release:

CN-001

Contact: CARL GOLDEN
609-292-8956 OR 609-292-6000 EXT. 207

MON., 3/6/89

Governor Thomas H. Kean today signed legislation to establish a tracking system for medical waste, requiring that any such waste be accompanied by a manifest identifying the generator and transporter before disposal is permitted.

Kean signed the bill at a ceremony in his outer office. The legislation, S-2343, was sponsored by former State Senator Frank Pallone, D-Momouth. An identical bill, A-2853, was sponsored in the Assembly by Assemblymen Frank LoBiondo, R-Cape May and Joseph Palaia, R-Monmouth.

The bill directs the State Department of Environmental Protection, in cooperation with the Department of Health, to create a "cradle to grave" system to handle the disposal of medical waste.

"We must put an end to midnight dumping of this kind of waste," Kean said. "With this new law, we will be able to trace illegal disposal back to the generator as well as to the transporter and offenders will be liable for criminal as well as civil penalties."

A medical waste tracking system was part of the Governor's 14-point clean ocean program unveiled in November of 1987. The effort to create such a system led to an announcement last August by both Governor Kean and New York Governor Mario Cuomo that the two states would cooperate in a regional effort to attack the illegal disposal of medical waste in waters shared by the two states as well as unlawful interstate transporting of such waste.

- more -

S-2343 - Tracking System for Medical Waste

Page 2

March 6, 1989

"This new law is a major step in combatting what has been an increasing serious environmental and health problem." Kean said. "There are laws, rules and regulations establishing the proper method to dispose of medical waste.

"The legislation I have signed today gives us yet another weapon to assure that those laws are being followed." Kean said.

#####