

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

**THE STATE'S HAZARDOUS WASTE
MANAGEMENT PROGRAM:
SOME IMPROVEMENT, BUT
MORE NEEDS TO BE DONE**

REPORT BY THE
OFFICE OF THE AUDITOR GENERAL
TO THE
JOINT LEGISLATIVE AUDIT COMMITTEE

P-343

THE STATE'S HAZARDOUS WASTE
MANAGEMENT PROGRAM: SOME IMPROVEMENT,
BUT MORE NEEDS TO BE DONE

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Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the Department of Health Services' programs for managing hazardous waste. The report concludes that the Department of Health Services has made little progress in strengthening its hazardous waste management program since the Auditor General's October 1981 report.

Respectfully submitted,

A handwritten signature in cursive script that reads "Thomas W. Hayes".

THOMAS W. HAYES
Auditor General

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SUMMARY

In October 1981, the Auditor General issued a report entitled "California's Hazardous Waste Management Program Does Not Fully Protect the Public from the Harmful Effects of Hazardous Waste." Between October 1981 and December 1982, the Department of Health Services (department) made limited progress in improving the State's hazardous waste management program; since January 1983, the department has taken actions to improve the program. However, the State's hazardous waste management program still does not adequately protect the public and environment from the harmful effects of hazardous waste. The department has issued few permits to hazardous waste facilities, has not effectively enforced hazardous waste control laws, and has not effectively monitored the transportation of hazardous waste. The weaknesses have resulted, in part, because until July 1983, the department had not implemented performance goals based on realistic estimates of the amount of work it could accomplish. Further, the department has not developed and implemented written procedures to guide all its activities, and has not developed workload standards to estimate staffing necessary to meet all of its goals. Finally, although the department has developed an automated management information system to monitor its program activities, it has not fully utilized this system.

In addition, the department has not spent all Superfund program monies available for cleanup of hazardous waste sites and other activities covered by the Superfund program. Unspent Superfund program monies generally represent services that are lost to the State.

Few Permits Issued

Between October 1981 and September 30, 1983, the department issued only 45 permits to hazardous waste facilities. Thirty-nine of these permits were issued between July 1 and September 30, 1983. The department estimates that from 600 to 1,100 facilities still

operate without permits. Further, the department may lose up to \$475,000 in federal funds unless it can prove to the Federal Environmental Protection Agency that it has assigned sufficient staff to its permit program.

The low number of permits issued reflects the low priority that the department had given to this activity. Until recently, the department did not provide adequate staffing to meet its objectives, nor did it develop written procedures to guide permit activity. However, in January 1983, the department assigned 19 staff to work full time on permits; later the department developed a comprehensive workplan, written procedures, work standards, and a permit tracking system to improve its performance in issuing permits. As a result, the department issued 44 permits in federal fiscal year 1982-83, compared to one permit in federal fiscal year 1981-82. The division's 1983-84 workplan states that it will issue 95 permits. If the division were to issue 95 permits each year, it would take more than 6 years to issue permits to all remaining sites.

Ineffective Enforcement of Hazardous Waste Laws

During federal fiscal year 1982-83, the department inspected over 800 facilities that generate, store, treat, or dispose of hazardous waste. However, it still does not effectively follow up to ensure that violations of hazardous waste control laws are corrected. Department records show that it has not followed up on violations at over 170 facilities. In addition, the department had applied few sanctions against violators of hazardous waste control laws; between October 1981 and September 15, 1983, only three fines totaling \$155,000 and one jail sentence have been ordered as a result of enforcement actions involving the department. Because the department has applied few sanctions against violators of hazardous waste control laws and has not held public hearings to order corrective action or to revoke or suspend registrations or permits, the department is not adequately deterring violators of hazardous waste laws. Effective September 1, 1983, the department

initiated a new policy and procedures to pursue violators of hazardous waste control laws more aggressively.

Ineffective Monitoring of Transportation of Hazardous Waste

Although the California Highway Patrol has inspected waste haulers for compliance with state and federal standards to ensure that waste is transported in safe vehicles, the department still has not developed its own standards for containers used to haul hazardous waste and standards for driver training to ensure that hazardous waste is transported in safe vehicles by properly trained drivers. Furthermore, the department's automated system for tracking shipments of hazardous waste still does not work effectively; problems with the department's computer have prevented the department from adequately tracking shipments of hazardous waste. Consequently, the department cannot assure that waste is being discharged at its proper destination.

Unspent State Superfund Money

In state fiscal year 1982-83, the department spent \$6.28 million in Superfund program monies to clean up hazardous waste sites, to assist local governments in cleaning up releases of hazardous material, to study the effects of exposure to hazardous material, and to fund other services provided by the Superfund program. In six of seven expenditure categories, however, the department did not spend the full amount of its budget allocations. While the department had \$4.53 million available for cleanup contracts at hazardous waste sites, the department spent only \$1.58 million for these contracts. In total, the department did not spend \$3.17 million of the available Superfund program funds. The department reported that problems in hiring staff and delays in securing federal funds prevented the department from letting some contracts to clean up hazardous waste sites. Weaknesses in the department's plans to allocate monies to clean up sites also contributed to the department's inability to spend all available monies for cleanup of hazardous waste sites.

INTRODUCTION

Recognizing the need for safe handling and disposal of hazardous waste in California, the Legislature enacted the California Hazardous Waste Control Act of 1972. The act established a program to ensure the safe generation, storage, treatment, and disposal of hazardous waste, and designated the Department of Health Services (department) to administer the program.

In 1976, the federal government instituted a nationwide program for managing hazardous waste by enacting the Resource Conservation and Recovery Act (RCRA). The RCRA required the Federal Environmental Protection Agency (EPA) to develop comprehensive standards for controlling hazardous waste and to implement a national hazardous waste management program. The RCRA also allows a state to operate its own hazardous waste management program if the EPA considers the state program to be substantially equivalent to the federal program. The EPA has authorized California to operate many components of the State's hazardous waste management program in lieu of the federal program.

Program Administration

In 1978, the department created the Hazardous Materials Management Section to implement and enforce California's hazardous waste management program. This section of the department was elevated to the Toxic Substances Control Division (division) in November 1981. The

division, which has its headquarters in Sacramento, has regional offices in Berkeley, Los Angeles, and Sacramento, and a branch office in Fresno. The division conducts its field inspection and enforcement activities out of the regional and branch offices. In state fiscal year 1983-84, the division was authorized 176 positions and a budget of over \$19 million.

Most of the funding for the department's hazardous waste management program comes from fees collected from operators of hazardous waste disposal facilities and haulers of hazardous waste, and from taxes collected from facilities that generate hazardous waste. The fees are paid to the Hazardous Waste Control Account of the General Fund; the taxes are paid to the Hazardous Substances Account of the General Fund. The RCRA also provides federal monies to support the program.

The department regulates the handling of hazardous waste by issuing permits to facilities that handle hazardous waste. Facilities in operation when the hazardous waste management program began and facilities that have since begun operating are required to apply to the department for operating permits. The department also registers haulers of hazardous waste and monitors the transportation of such material.

The department also regulates the handling of hazardous waste by inspecting hazardous waste facilities and investigating reports of improper or illegal activities. When the department discovers violations, it notifies the facility and requests the facility to take corrective action. In some instances, it can apply administrative

sanctions by suspending, or revoking a facility's permit or a hauler's registration. The department can also take legal action against violators and may request civil and criminal penalties. These regulatory and enforcement programs are intended to upgrade the operations of hazardous waste facilities and waste haulers and to ensure compliance with safety standards.

The State's Superfund Program

The department is also responsible for administering the State's Superfund program for cleaning up hazardous waste sites and releases of hazardous material that pose a threat to public health or the environment. The Legislature established the Superfund program under Chapter 756 of the Statutes of 1981, effective September 25, 1981, in response to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Under the CERCLA, the EPA provides money to the states to clean up hazardous waste sites and releases of hazardous material. The CERCLA requires that states pay 10 percent, or in certain circumstances at least 50 percent, of the cost of cleaning up hazardous waste sites when the cleanup is funded by federal monies.

In carrying out its responsibilities to clean up hazardous waste sites, each year the department lists and ranks sites requiring cleanup according to the relative degree of risk each site poses to the public or the environment. The department considers such factors as the

potential for public contact with hazardous material on the site, the possibility that the hazardous material will ignite or explode, and the potential that hazardous material will become airborne or will migrate off site in ground or surface water. (Appendix B shows the department's 1982 list of 60 hazardous waste sites.) State law requires the department to spend monies to clean up hazardous waste sites in conformance with the ranking. State law also requires the department to try to obtain all federal monies to which it is entitled and authorizes the department to initiate cleanup actions if any liable party will not initiate appropriate and timely cleanup actions. Assembly Bill 860, effective September 23, 1983, authorizes the department to initiate cleanup actions if any liable party has not already taken or initiated appropriate or timely cleanup actions.

Auditor General's 1981 Report
on California's Hazardous
Waste Management Program

In October 1981, the Auditor General reported on the department's hazardous waste management program.* The report stated that since 1978, the department had issued permits to only 18 of the estimated 1,200 hazardous waste facilities then operating in the State, had not effectively enforced hazardous waste control laws, and had not effectively controlled the transportation of hazardous waste. The report

*This report is entitled "California's Hazardous Waste Management Program Does Not Fully Protect the Public from the Harmful Effects of Hazardous Waste," Report P-053, October 1981.

concluded that, as a result of these weaknesses, neither the public nor the environment was sufficiently protected from the harmful effects of hazardous waste.

The Auditor General recommended that the department develop specific procedures for issuing permits, conduct routine compliance inspections, monitor the status of corrective action taken by facilities, apply sanctions to violators of the law, and improve its system for tracking manifests to ensure that the system effectively monitors the shipment of hazardous waste. The Auditor General also recommended that the department develop written procedures for all of its activities. Finally, the Auditor General recommended that the department quantify its objectives, establish methods to measure performance, develop workload standards for its programs to determine staffing levels and justify staffing requests, and improve its management reporting system. (Appendix A contains a summary of the 1981 report.)

SCOPE AND METHODOLOGY

This audit focuses on the Department of Health Services' progress in improving the three major elements of its regulatory program--issuing permits to hazardous waste facilities, enforcing laws and regulations, and controlling the transportation of hazardous waste. We also assessed the department's performance in implementing the Auditor General's recommendations for improving these activities. Further, we examined the department's management of the State's Superfund program,

focusing on how the department spent its Superfund program monies and whether it used all of its available funds.

In conducting this examination, we interviewed personnel of the department's Toxic Substances Control Division and reviewed records at the division's headquarters, at the Los Angeles, Berkeley, and Sacramento regional offices, and at the Fresno branch office. We also interviewed personnel of the Federal Environmental Protection Agency.

AUDIT RESULTS

I

THE DEPARTMENT OF HEALTH SERVICES HAS BEEN SLOW IN IMPROVING ITS HAZARDOUS WASTE MANAGEMENT PROGRAM

Although the Auditor General has provided specific recommendations for improving California's hazardous waste management program, the Department of Health Services has made little progress in issuing permits, enforcing hazardous waste control laws, and controlling transportation of hazardous waste. Until July 1983, the department had not implemented performance goals based on realistic estimates of the amount of work it could accomplish. In addition, the department has not developed and implemented written procedures and workload standards for all of its activities. Further, although the department has developed a comprehensive management information system to monitor corrective action taken by hazardous waste facilities, the department has yet to fully utilize this system. Finally, the department still has not developed standards for safe transportation of hazardous waste and lacks an effective system for tracking shipments of hazardous waste.

Recent changes in the department's permit activity have resulted in an increase in the number of permits issued, and the department inspected over 800 hazardous waste facilities in federal fiscal year 1982-83. The department is also taking more aggressive action to penalize violators of hazardous waste control laws. Further,

in July 1983, the Toxic Substances Control Division implemented a workplan for state fiscal year 1983-84. This workplan specifies goals for all of the division's programs and specifies the number of staff to be assigned to these programs. Nonetheless, as a result of delays in issuing permits and enforcing hazardous waste control laws, the department's hazardous waste management program does not adequately protect the public and the environment from the improper handling of hazardous waste.

The Department Has Issued Few
Permits to Hazardous Waste Facilities

The California Health and Safety Code requires the department to issue operating permits to all facilities that store, treat, or dispose of hazardous waste. The goal of the permit program is to protect the public and the environment by upgrading and controlling the operations of hazardous waste facilities. This program also enables the department to enforce applicable laws and regulations by suspending or revoking permits. Our October 1981 audit found that since 1978, the department had issued permits to only 18 of the estimated 1,200 hazardous waste facilities requiring permits. We recommended that the department improve its planning and administration by establishing goals for issuing permits and modifying its procedures for managing the permit program.

Since October 1981, the department has still issued few permits to hazardous waste facilities. Although the department set a goal of issuing 50 permits in federal fiscal year 1981-82 and 150 permits in

federal fiscal year 1982-83, the department issued a total of only 45 permits during the two fiscal years. The department estimates that at least 600 hazardous waste facilities in California are currently operating without permits.*

Operating Standards for
Hazardous Waste Facilities

Since 1978, in response to state requirements, the department has developed minimum operating standards for hazardous waste facilities. For example, the standards prohibit facilities from accepting certain types of waste such as highly flammable waste and waste that is known to be extremely hazardous. The standards also require that equipment used to store or handle waste be in good condition and should not leak. Further, the standards specify that waste storage areas be constructed so that they will contain spills of hazardous waste. These standards are designed to ensure that methods for treating, storing, or disposing of waste safeguard the public and the environment.

*The department estimates a range of 600 to 1,100 hazardous waste facilities that currently operate without permits. According to department officials, the 1981 estimate of 1,200 facilities operating without permits was based on the number of facilities that applied for a federal permit under the Resource Conservation and Recovery Act. The department reports that approximately 40 percent to 50 percent of the facilities that applied for a federal permit in 1981 either did not need a state or federal permit or have since changed their storage practices so that they no longer require a state or federal permit. On the other hand, the number of facilities that applied for a federal permit did not include additional facilities that required permits under state law, which is more stringent than federal law. In addition, since 1981, new facilities have begun operating and have applied to the department for permits.

The department has also established certain procedures for issuing permits. To receive a permit, a facility operator must supply the department with an application and a plan describing operating procedures, the characteristics of the waste, and provisions for its safe handling. The department then reviews the operation plan; if the plan is acceptable, and if a departmental inspection of the site confirms that the facility operations conform to regulatory standards, the department issues a final permit. This permit may also contain individual compliance requirements tailored to a particular facility.

Additionally, the department is authorized by the California Health and Safety Code to issue interim status documents to facilities pending final decision on the application for a permit. Interim status documents establish general compliance conditions for the safe operation of hazardous waste facilities; however, interim status documents do not require submission of a detailed plan of operation or an on-site inspection by the department. The department estimates that it has issued over 925 interim status documents since 1981.

Issuing Permits Increases
the Department's
Regulatory Effectiveness

Both our 1981 audit and our current audit found that issuing permits to hazardous waste facilities plays an important role in ensuring that facilities conform to the department's standards. By issuing a

permit, the department can prohibit facilities from accepting certain types of waste, specify schedules for inspecting waste storage and treatment equipment, and specify instructions for containing spills of hazardous waste. We found that the department required that such conditions be followed in several of the permits it issued. For example, the department prohibited a facility from accepting polychlorinated biphenyls (PCB's), a known cancer causing substance. The department also required several other facilities to inspect their storage tanks and treatment equipment daily. Moreover, one of the facilities was required to inspect its underground tanks for leaks at least every three years. At another facility, at which groundwater was found to be contaminated, the permit specified that the facility not use its underground storage tanks until cleanup of the facility was completed. For a facility that produced various solvents, the department specified special instructions for handling emergency spills of these solvents. Because the department has issued few permits, it cannot assure that the hazardous waste facilities operating without permits are complying with state requirements designed to protect the public and the environment from the harmful effects of hazardous waste.

We also found that in addition to improving operating practices, issuing permits to hazardous waste facilities enhances the department's ability to enforce continued compliance with hazardous waste control laws. To secure compliance with laws and regulations, the department can threaten to revoke or suspend a facility's permit. When a facility's permit is suspended or revoked, the facility must cease the

operation for which the permit was granted. Although all facilities, regardless of their permit status, are required to comply with hazardous waste control laws, department officials stated that the power to suspend or revoke a permit provides additional leverage to secure compliance. Accordingly, because it has issued few permits, the department is without this important leverage in regulating at least 600 facilities currently handling hazardous waste without a permit.

Possible Loss of Federal Funds

Because the department did not meet its commitment of issuing 50 permits during federal fiscal year 1981-82, the Environmental Protection Agency declared that approximately \$950,000 of the federal funds allocated to California in 1982-83 would be contingent upon the department's issuing more permits. The EPA withheld approximately \$475,000 of that amount until the department had drafted 25 permits and requested 150 facilities to submit operation plans. The EPA stated that it would not pay the department the remaining \$475,000 unless the department either issued 110 permits by September 30, 1983, or could prove that it had provided sufficient staff to meet the goal. Since the department issued only 44 permits in federal fiscal year 1982-83, it must now prove to the EPA that it did provide sufficient staff to issue 110 permits. According to an EPA official, the EPA will conduct a review to determine if the department complied with the stipulations in the grant agreement. Consequently, the department may lose up to \$475,000 in federal funds.

Low Priority to Permits

The department issued few permits because it had given low priority to this activity; it emphasized instead its enforcement program over its permit program. Because of the program's low priority, the department did not assign to the permit program sufficient staff to achieve the program's objectives. Until January 1983, the department had not allocated a specified level of staffing for its permit activities; staff assigned to work on issuing permits were often reassigned to enforcement activities.

In addition to assigning low priority to issuing permits, the department was slow in implementing the Auditor General's recommendations for improving the management of the permit program. In 1981, we recommended that the department develop specific goals for issuing permits, monitor its progress in reaching the goals, and modify its goals as required. We also recommended that the department develop specific procedures for issuing permits and develop workload standards for the program. Although the department did develop goals, it did not modify these goals to reflect the priority it gives to the program. The department's goal in federal fiscal year 1981-82 was to issue 50 permits, but it issued only one permit. The department's 1982-83 goal was to issue 150 permits; it issued 44. Additionally, until 1983, the department had developed neither written procedures to guide permit activity nor workload standards to determine the staff necessary to meet its goals. As a result, the department failed to meet its permit objectives.

Recent Improvements

Since January 1983, the department has acted to improve its permit program. The department has assigned 19 staff to work on permits full time, has developed written procedures to guide the staff in issuing permits, and has developed work standards to allow it to estimate the number of staff needed to meet its permit goals. Furthermore, in July 1983, the Toxic Substances Control Division implemented a workplan for state fiscal year 1983-84. This workplan specifies the goals for all of the division's programs and specifies the number of staff to be assigned to these programs. In its workplan, the department estimates that it will issue 95 permits in state fiscal year 1983-84.

Finally, the department has implemented a permit tracking system to monitor the status of its permit activity. As a result, the department issued 44 permits in federal fiscal year 1982-83, 43 more than it issued in federal fiscal year 1981-82. Moreover, 39 of these permits were issued between July 1 and September 30, 1983.

The Department Has Inspected More Hazardous Waste Facilities

The California Health and Safety Code also requires the department to enforce regulations to ensure that the public and the environment are protected from improper handling of hazardous waste. As part of its program to carry out this mandate, the department's field inspection and enforcement unit inspects hazardous waste facilities to

determine if the facilities are complying with regulations. The field inspectors may enter and inspect facilities that generate, store, treat, or dispose of hazardous waste. The purpose of these inspections is to ensure that facilities comply with operating standards for safeguarding the public and the environment.

In October 1981, we found that the department lacked a routine inspection program to assess compliance and to identify and correct violations before they become serious problems. We found that the department had inspected less than 15 percent of the State's hazardous waste facilities. Since our last report, the department has developed a routine inspection program. In federal fiscal year 1982-83, the department met its goal to inspect 400 facilities that store, treat, or dispose of hazardous waste. Although the department did not meet its goal to inspect 525 facilities that generate hazardous waste, the department did inspect approximately 420 of these facilities. Furthermore, the department has entered into agreements with six county health departments to have the counties inspect facilities that generate hazardous waste. For instance, during federal fiscal year 1982-83, the Los Angeles County Department of Health Services inspected 133 facilities that generate hazardous waste.

The Department Does Not
Effectively Follow Up on Violations
of Hazardous Waste Control Laws

When the department confirms that a facility is violating hazardous waste control laws, it attempts to resolve the violation by requiring the facility to take corrective action. The department issues written orders directing the violator to develop a cleanup plan to be approved by the department. We found, however, that the department does not adequately follow up to ensure that the violator complies with the cleanup plan. In addition, the department lacks adequate staff management procedures for its follow-up program and does not make complete use of its automated management information system to monitor its enforcement actions.

Inadequate Followup

Our previous audit found that the department did not always ensure that corrective action was taken. We cited several examples that illustrated the need for prompt followup. In one case, the department had found 47 barrels of various paint sludges, chemical solvents, and unknown chemicals buried at a landfill. The department's staff, observing that liquids were seeping from these barrels, asked the owner of the facility to retain the barrels as evidence for possible prosecution. The staff, however, did not return to the landfill for six months. Although they found the conditions at the landfill the same as before, a department official determined that prosecution would be

unsuccessful because of the long interval between initial discovery of the barrels and the follow-up inspection.

In this current audit, we found that the department still does not follow up to ensure that facilities take corrective action. For example, the department maintains a list of approximately 370 facilities where violations were identified; the department has not taken follow-up action at over 170 of these facilities. Additionally, staff in the regional offices stated that they do not routinely follow up to ensure that violations are corrected. Consequently, in many cases, the department cannot assure that the violations it identified have been effectively corrected.

Inadequate Procedures for Staff Management

According to department officials, the regional offices lack staff to adequately ensure that the violator takes corrective action. The department gives priority to inspecting new sites and monitoring the cleanup of major contaminations. Consequently, it does not always follow up to ensure that violations have been resolved.

In addition to staff limitations, the department has not fully developed workload standards to determine the number of staff it needs for enforcement activities. The department has estimated workload standards to determine its needs for enforcement staffing; yet, it has not tested the accuracy of these standards. Consequently, the department

cannot adequately estimate the number of staff it needs for enforcement activities.

Moreover, the department still lacks written procedures and does not use tested workload standards to monitor and control the amount of time spent on inspections and investigations. Although the Auditor General's 1981 report recommended that the department develop such procedures and standards, the regional offices still operate without written procedures and workload standards for these enforcement activities. Consequently, field supervisors are unable to adequately monitor and evaluate how staff time is spent, and they are unable to assign staff in the most efficient and effective manner.

Incomplete Use of Management Information System

Our 1981 audit also found that the department lacked adequate systems and procedures for monitoring the status of corrective actions. An effective monitoring system requires that the department closely follow corrective action from start to finish to ensure that violators make the required improvements. The system should ensure that the department takes the appropriate steps to obtain corrective action and that the violator is meeting compliance schedules.

Since October 1981, the department has developed a comprehensive automated management information system to monitor the status of its enforcement actions. According to staff in the regional

offices, however, they do not use the system because the staff do not have time to enter information into the computer. Instead, the regional offices rely on manual files to monitor the status of enforcement actions.

The Department Has Penalized Few Violators

The department can impose administrative sanctions and seek civil and criminal penalties against violators of hazardous waste control laws. After a public hearing, the department may suspend or revoke registrations and permits and order the violators to take corrective action. The department may also seek an injunction prohibiting illegal practices or seek civil and criminal penalties up to \$25,000 for each day the violation remains uncorrected. For additional offenses, the department may seek criminal penalties of up to \$50,000 per day of violation. The department has not, however, applied all the legal remedies it has available.

In October 1981, we reported that the department applied few penalties and sanctions to deter violators of hazardous waste control laws. Although the department had identified over 300 violations since 1979, only 16 of these were brought to court. These court actions resulted in fines of \$2,000 and \$10,000, plus a monetary settlement of \$2,800,000. The department had not held any public hearings to order violators to take corrective action, nor had it revoked or suspended registrations or permits.

Since 1981, the department still has not taken all legal actions available to it. Between October 1981 and September 15, 1983, the department referred 37 cases to city and district attorneys and to the Attorney General for legal action. Only 14 cases, however, have actually been taken to court. Since January 1983, these actions resulted in three fines of \$100,000, \$47,500, and \$7,500; a jail sentence was included with the \$100,000 fine. Additionally, the department still has not held any public hearings to order corrective action or to revoke or suspend registrations or permits. The Toxic Substance Control Division has referred 5 cases to the department's legal office to initiate public hearings to revoke the registrations of five waste haulers. However, these hearings have not yet been held.

According to a department official, the department has not held public hearings to order corrective actions or to revoke or suspend permits or registrations because this process is very cumbersome. The department prefers to get a court order when a facility refuses to correct violations. The department has used court orders seven times to require corrective action. Department officials told us that they prefer not to take stronger enforcement action because such action may result in lengthy and expensive court action; staff must spend time gathering evidence and appearing in court. To avoid such expenditures of time and money, the department usually tries to obtain compliance through negotiation with violators. The department has issued over 40 noncompliance letters requiring facilities to provide contingency plans for closing their facilities and demonstrate that they have sufficient monies to pay for the costs of closing their facilities.

We also found, however, that the department has not taken stronger enforcement action because the regional offices have not followed the department's enforcement criteria for referring cases for legal action. These criteria, which were effective in July 1982, and have since been changed, stated that violations should be referred for legal action under such circumstances as when the violation poses a threat to the public health or environment, or when the violator fails to take corrective action in a timely manner. Only one of the three regional offices consistently used these criteria to refer cases for legal action.

The department has recently implemented a new policy, effective September 1, 1983, that requires that enforcement action be taken against violators of hazardous waste control laws. When the department discovers a violation, the policy requires the department to meet with the violator to agree on monetary settlement and to specify the corrective action that the violator is to follow. If the violator fails to agree on a settlement, the department will take legal action. The department created a new position, an enforcement coordinator, to ensure that proper and uniform enforcement action is taken. Because this policy became effective at the end of our audit, we were not able to evaluate its effectiveness.

The Department Does Not Effectively Control the Transporting of Hazardous Waste

The California Health and Safety Code requires the department to develop and implement controls to ensure that hazardous waste is transported safely. These controls include registering haulers of hazardous waste, inspecting and certifying hazardous waste transport vehicles, and tracking shipments of hazardous waste. The code also requires registered haulers to obtain liability insurance and train their drivers in the safe handling of hazardous waste. The purpose of these requirements is to protect the public and the environment from the harmful effects of improper transport of hazardous waste to disposal sites. The department has not, however, developed container standards for vehicles that transport hazardous waste and lacks an effective system for tracking the shipments of hazardous waste.

Lack of Department Standards

Section 25168 of the California Health and Safety Code, which became effective on January 1, 1980, made the registration of waste haulers contingent upon two major conditions. First, the transport vehicles and containers used by the haulers must comply with the California Vehicle Code and department regulations specifying the design, construction, and equipment requirements of the vehicles. The vehicles must receive annual inspections and compliance certification from the California Highway Patrol. Second, haulers must provide documentation

that all persons operating registered vehicles have received adequate training to ensure the safe handling of hazardous waste.

Our October 1981 audit found that the department had not developed specifications for containers for hauling hazardous waste or training requirements for persons transporting hazardous waste. As a result, the California Highway Patrol was unable to initiate annual inspections to certify that vehicles transporting hazardous waste complied with safety standards.

The department still has not adopted standards for containers used to transport hazardous waste. However, since January 1982, the California Highway Patrol has inspected hazardous waste transport vehicles and containers for compliance with standards established by the United States Department of Transportation, the California State Health and Safety Code, and the California Vehicle Code. From January 1983 to September 1983, the California Highway Patrol inspected and certified over 3,200 hazardous waste transport vehicles and containers. According to an official at the California Highway Patrol, these federal and state standards provide sufficient criteria for the inspections to ensure that hazardous waste is transported in safe vehicles.

The department has also not adopted driver training standards to ensure that drivers of hazardous waste transport vehicles have been trained in safe methods for transporting hazardous waste. Since the California Highway Patrol does not have any criteria by which to assess

whether drivers have been properly trained to handle hazardous waste, the department cannot assure that drivers of hazardous waste transport vehicles have been properly trained.

According to department officials, the department has been slow in developing these regulations because of the lack of priority it has given to them. Staff assigned to develop these regulations have been redirected to work on other activities such as permitting and enforcement. The department estimates that standards for containers for hauling hazardous waste and standards for driver training will be adopted by February 1984.

Inadequate Manifest System

The Resource Conservation and Recovery Act and Section 25161 of the California Health and Safety Code require that the department establish a system for tracking the movement of hazardous wastes from production sites to disposal sites. The system, referred to as a "hazardous waste shipping manifest system," requires that transported hazardous waste be accompanied by a list or manifest describing the type, amount, composition, origin, and destination of the waste.

For each shipment of hazardous waste, department regulations require the producer, disposer, and the hauler to submit to the department copies of the manifest within 30 days of the shipment and disposal. The department has designed an automated system to cross-match

the producer and disposer copies in order to determine if the waste arrived at the proper disposal site. A successful match would indicate that the same load of hazardous waste shipped by a producer was discharged at an authorized hazardous waste facility. If a match does not occur, the system generates an "exception report" so that the department may investigate the incident. Unmatched manifests could indicate that waste was dumped illegally. Although the system is designed to ensure that the hazardous waste arrives at authorized disposal sites, it also provides the State considerable data on the types and volume of hazardous waste disposed.

Our October 1981 audit found that the department's hazardous waste shipping manifest system was not effective; the system did not compare copies of the manifest submitted by the producer and the disposer to verify that the load shipped by the producer and discharged by the hauler at the proper site were the same. Although some progress has been made since 1981, the department's manifest system still does not effectively track shipments of hazardous waste. Consequently, the department cannot assure that waste shipments arrive safely at authorized disposal sites.

The department automated its hazardous waste shipping manifest system in December 1982; since then it has entered copies of over 73,000 manifests into its computer. However, the department has matched copies of only approximately 36,000 of the manifests. Moreover, the department has been unable to determine if the unmatched manifests indicate illegal disposals or result from problems with the department's computer system.

Approximately 40 percent of the estimated 73,000 manifests that the department entered into its computer contain either erroneous information, such as an incorrect identification number of the facility that generated the waste, or information, such as the type of waste, that differs from the department's records. These manifests were put into the computer's "suspense file," but the computer was not programmed to match copies of the manifests in the suspense file.

Because copies of thousands of manifests were in the suspense file, the system generated a large number of exception reports. These exception reports were so numerous that the department could not adequately follow up on them. In July 1983, the department modified the computer program so that the system does not generate an exception report if a copy of a manifest is in the suspense file. As a result, the number of exception reports has significantly declined. The department is now following up to account for the unmatched manifests.

II

THE DEPARTMENT OF HEALTH SERVICES HAS NOT SPENT ALL AVAILABLE SUPERFUND PROGRAM FUNDS

In state fiscal year 1982-83, the Department of Health Services did not spend \$3.17 million of the available Superfund monies. The department had \$9.45 million available to clean up hazardous waste sites, assist local governments in cleaning up releases of hazardous material, study the effects on health that result from exposure to hazardous material, and provide other services within the scope of the Superfund program. The department spent a total of \$6.28 million. Problems in hiring staff and delays in securing federal funds prevented the department from letting some contracts and spending some of the available funds. In addition, weaknesses in the department's plans for allocating contract monies to clean up sites also contributed to the department's inability to spend all available monies in state fiscal year 1982-83.

Superfund Program Funding

California's legislation provides up to \$10.0 million annually to pay for state costs incurred under the federal Comprehensive Environmental Response, Compensation, and Liability Act program (CERCLA). Superfund program monies are also used to clean up hazardous waste sites and releases of hazardous material for which funds from the CERCLA program or liable parties are not available. Further, the department can

use Superfund program monies to compensate victims for medical expenses and loss of income resulting from exposure to hazardous materials, to study the effects on health that result from exposure to hazardous materials, and to purchase equipment used for responding to releases of hazardous material.

The State's Superfund program is supported by taxes that the State collects from facilities that generate hazardous waste. The amount of taxes levied is adjusted downward by the department's estimate of the amount of unspent Superfund program funds it will have at June 30. For example, if in March, the department estimates that it will have \$2 million in unspent Superfund program monies at June 30, the State Board of Equalization will levy only \$8 million in taxes for the fiscal year beginning July 1. Except for funds appropriated by the Legislature for specific cleanup projects, funds not spent in the state fiscal year for which they are allotted are not carried over and added to the following year's \$10.0 million allotment. Thus, unspent Superfund program monies generally represent services lost to the State. Consequently, for maximum program results, the department must spend all funds in the year they are available.

1982-83 Cleanup Activities at Hazardous Waste Sites

The department performs various steps in completing a cleanup project at a hazardous waste site, including collecting data to identify the extent of the contamination at the site, evaluating and selecting a

method for the cleanup, and preparing and implementing a detailed plan to clean up the site. In identifying a funding source for a cleanup project, the department attempts to secure funds from a liable party or the federal government before committing state funds. The department reevaluates the availability of funds from the federal government and liable parties at various intervals throughout the cleanup project and attempts to secure these funds as they become available.

In state fiscal year 1982-83, Superfund program staff managed cleanup projects at nine hazardous waste sites. They performed some of the work preliminary to implementing cleanup plans and selected and monitored contractors who performed all other work. In addition, they worked with federal officials and liable parties in securing funding for cleanup projects.

Superfund program staff also devoted time to cleanup projects at eleven other sites; staff assisted in the department's enforcement program, which is not funded by the Superfund program, in supervising cleanup projects at 10 sites, and documented the existence of hazardous material at one other site. In total, Superfund program staff worked on cleanup projects at 20 hazardous waste sites in state fiscal year 1982-83. (Appendix C shows the expenditures for all cleanup projects that the Superfund program staff worked on during state fiscal year 1982-83 and the current status of the cleanup projects supervised by Superfund program staff at the nine sites as of June 30, 1983.)

The Department Has Not
Spent All Available Funds

The department prepared its budget for state fiscal year 1982-83 anticipating \$10.0 million in tax revenues. Table 1 shows the department's budget for all categories of the Superfund program and the amount the department spent for each category.

The table shows that the department spent \$6.28 million of the \$10.0 million it anticipated in tax revenues. The department did not spend \$3.72 million of the total it had budgeted. However, because the State Board of Equalization did not collect all the taxes it levied, the department had only \$9.45 million to support the Superfund program in state fiscal year 1982-83. Yet, even with the reduced revenues, the department had \$3.17 million in unspent Superfund program monies at the end of the state fiscal year.

As table 1 shows, the department did not spend the full amount allocated for contracts to clean up hazardous waste sites and releases of hazardous material, contracts to study the effects of exposure to hazardous material, compensation of persons injured by exposure to hazardous material, and agreements with state agencies. The department also did not spend all of the amount budgeted for salaries and operating expenses.

TABLE 1
 SUPERFUND PROGRAM MONIES BUDGETED AND SPENT
 IN STATE FISCAL YEAR 1982-83
 (millions)

<u>Expenditure Category</u>	<u>Expenditure</u>		
	<u>Budgeted</u>	<u>Spent</u>	<u>Unspent</u>
Contracts to Clean Up Hazardous Waste Sites	\$ 4.53	\$1.58	\$2.95*
Contracts to Clean Up Releases of Hazardous Material	1.00	.24	.76
Equipment to Clean Up Releases of Hazardous Material	.80	.80	0
Contracts for Health Studies	.28	.14	.14
Compensation to Injured Persons	.30	0	.30
Agreements with State Agencies	.94	.67	.27
Salaries and Operating Expenses	2.15**	1.36	.79
Administrative Overhead	0***	.31	(.31)
Repayment of General Fund Loan	<u>0***</u>	<u>1.18</u>	<u>(1.18)</u>
Total	<u>\$10.00</u>	<u>\$6.28</u>	<u>\$3.72</u>

*Includes \$1.5 million appropriated specifically to implement cleanup plans at the McColl hazardous waste site. Since the department was unable to complete all work to prepare the McColl site for cleanup, these monies were neither spent nor available for other cleanup projects.

**Includes \$41,170 in administrative overhead.

***The department did not account for all administrative costs or its obligation to repay a portion of its loan from the General Fund when preparing its state fiscal year 1982-83 budget.

Unspent Funds
For Cleanup Projects

Although the department allocated \$4.53 million for contracts to perform various steps in cleaning up hazardous waste sites, the department spent only \$1.58 million for these contracts. The department did not spend all of the funds that it had budgeted for cleanup contracts at hazardous waste sites because it was unable to let all contracts as planned. The department planned to let contracts at nine sites; however, it actually let contracts at only five sites. An official of the Superfund program stated that the department let fewer contracts because of problems in hiring staff and delays in securing funds from the federal Comprehensive Environmental Response Compensation, and Liability Act (CERCLA) program.

According to this official, because of state hiring freezes, the department experienced delays hiring needed Superfund program staff; 12 of 17 key staff members were not hired until the end of August 1982. Four of the remaining 5 staff members were not hired until December 1982; and the fifth staff member was not hired until May of 1983. Consequently, the department did not have staff available to initiate as many contracts as planned.

This official also reported that the department did not let contracts at two sites because of delays in securing federal CERCLA monies for these sites. Although in June 1982, the department requested federal financial assistance to clean up the Stringfellow hazardous waste

site, it did not receive federal approval for this funding until July 1983. Because current state law requires the department to try to obtain federal funds, the department let contracts totaling \$373,000 to maintain the Stringfellow site but did not let contracts to clean up this site.

While problems in hiring staff and delays in securing federal funding contributed to the department's inability to spend all monies available to clean up hazardous waste sites, weaknesses in the department's plans for allocating monies to clean up these sites also contributed to the department's inability to spend all of its available contract monies. Although the department planned to spend contract monies at nine sites during state fiscal year 1982-83, it did not allocate all available monies to each of these nine sites. The department could not, therefore, compare actual expenditures at each site with planned expenditures. Consequently, it was unable to identify sites where it was not spending the full amount of money available for cleaning up the site. The department was thus unable to establish alternative plans to ensure that it spent all monies available for cleanup of hazardous waste sites.

Unspent Funds
for Other Activities

In addition to not spending its full allocation for contracts to clean up hazardous waste sites, the department also did not spend its full allocation for other Superfund program services. The department allocated \$1.8 million to purchase equipment and let contracts to assist

state and local agencies in cleaning up releases of hazardous material. The department spent approximately \$800,000 as planned for equipment and let contracts totaling \$570,000. However, the cost of necessary services provided under the cleanup contracts totaled only \$240,000, leaving an unspent balance of \$760,000.

The department also spent only \$140,000 of the \$280,000 allocated for contracts to study the effects on health from exposure to hazardous material. According to a Superfund program official, the department let contracts totaling \$245,000 for such studies. However, because of the length of time required to develop and review contracts, these contracts were not let until April 1983. Consequently, the contractors did not have sufficient time to spend all of the contract monies before the end of the state fiscal year. A department official stated that he did not let two contracts totaling \$35,000 as planned in state fiscal year 1982-83 because, in one case, he did not have sufficient staff to process the results. In the other case, he did not think he could let the contract in time for a contractor to substantially complete the study before the end of the state fiscal year.

The department did not spend any of the \$300,000 reserved to compensate injured persons for medical expenses and loss of income resulting from exposure to hazardous material. The State Board of Control, which administers the compensation program, reported that no claims for compensation were filed during state fiscal year 1982-83.

The department spent \$670,000 of the \$940,000 budgeted for agreements with other state agencies that provide services under the Superfund program. For example, the department established agreements with the State Board of Control to administer the program to compensate injured persons who were exposed to hazardous material and with the State Board of Equalization to collect annual taxes from facilities that generate hazardous waste. A Superfund program official explained that all monies were not spent under these agreements because the programs in some of these state agencies were not fully staffed and operating as of July 1, 1982. In other cases, the agencies stated that they provided fewer services than anticipated.

Finally, the department spent only \$1,360,000 of the \$2,150,000 available for salaries and related operating expenses. The department was unable to spend all of these funds primarily because hiring freezes prevented the department from hiring most of its staff by the beginning of the state fiscal year.

III

CONCLUSION AND RECOMMENDATIONS

The Department of Health Services has been slow in implementing legislative requirements to issue permits to facilities that handle hazardous waste, to enforce hazardous waste laws, and to monitor the transportation of hazardous waste. Until July 1983, the department had not implemented performance goals based on realistic estimates of the amount of work it could accomplish. Further, the department still has not developed written procedures to guide all its activities and has not established workload standards to determine staffing levels necessary to meet its goals. Additionally, the department has not fully utilized its automated management information system to monitor its program activities, and problems with its automated system for matching manifests have prevented it from effectively tracking the shipment of hazardous waste.

In addition, in state fiscal year 1982-83, the department did not spend \$3.17 million in Superfund program monies that were available to clean up hazardous waste sites and provide other services under the Superfund program. Staffing problems due to hiring freezes and problems in securing federal funds prevented the department from letting some contracts for cleanup of hazardous waste sites; problems in the department's planning process for cleaning up sites also contributed to the department's inability to spend all available funds.

The department has recognized many of the problems described in the report. In some cases, it has already initiated corrective action. Since January 1983, the department has developed a workplan that specifies the goals for all of its programs, has implemented written procedures to guide its permit activities, has developed workload standards to estimate the number of staff necessary to meet its permit goals, and has instituted a permit tracking system to monitor the status of its permit activities. During federal fiscal year 1982-83, the department inspected over 800 hazardous waste facilities. Effective September 1, 1983, the department has also implemented a new enforcement policy and procedures to pursue violators of hazardous waste laws more aggressively. Furthermore, the department has continued to improve the operation of the department's system for tracking shipments of hazardous waste. However, the department needs to make further improvements to correct the program deficiencies we documented.

Recommendations

To strengthen the control and management of hazardous waste, the Department of Health Services should fully implement the recommendations made in the Auditor General's October 1981 report. Specifically, the department should do the following:

- Continue its efforts to develop specific goals and objectives for issuing permits to hazardous waste facilities, enforcing hazardous waste control laws, and controlling the

transportation of hazardous waste. The department should then monitor the accomplishment of these goals and modify plans as required.


- Develop specific procedures to guide staff in conducting inspections to identify violations of hazardous waste control laws and follow up to ensure that these violations of hazardous waste control laws are corrected. The department should also take steps to ensure that regional offices comply with new procedures for applying sanctions to violators of these laws.
- Develop workload standards for each program activity so that it can establish staffing levels and justify staffing requests.
- Improve its use of its automated management information system.
- Continue to make improvements to the manifest system to ensure the system effectively monitors the shipment of hazardous waste. The department should establish milestones for when these improvements should be in place and then monitor the accomplishment of these improvements.
- Develop standards for containers used to haul hazardous waste and for training drivers of vehicles that transport hazardous waste.

The Legislature has required the department to submit a quarterly report to the Legislature showing the department's progress in meeting the program objectives in its 1983-84 workplan. To ensure timely implementation of the Auditor General's recommendations, the Legislature should continue to require the department to report, on a quarterly basis, its progress in issuing permits, enforcing hazardous waste control laws, and controlling transportation of hazardous waste. Quarterly reporting should continue until such time that the Legislature determines it is no longer necessary.

Furthermore, to ensure that the department uses all available Superfund program monies to clean up hazardous waste sites, the department should allocate to individual hazardous waste sites all funds available for cleanup contracts.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,


for THOMAS W. HAYES
Auditor General

Date: October 31, 1983

Staff: Robert E. Christophel, Audit Manager
Michael A. Edmonds
Ellen K. Fisher

Memorandum

Date : October 28, 1983

To : Thomas W. Hayes
Auditor General
Office of the Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

Subject: REPORT "THE STATE'S
HAZARDOUS WASTE MANAGE
MENT PROGRAM: SOME
IMPROVEMENT BUT MORE
NEEDS TO BE DONE."

From : HEALTH AND WELFARE AGENCY
Office of the Secretary
1600 Ninth Street, Room 460
Sacramento, 95814 (916) 445-6951

Thank you for the opportunity to comment on your draft report, "The State's Hazardous Waste Management Program: Some Improvement But More Needs to Be Done". Because of the short time frame available for review and response to this report, our comments are necessarily of limited breadth and scope.

I am pleased that the Auditor General recognized throughout this report the many actions taken since January, 1983 to improve the management of the program.

In particular, I appreciate the recognition given to the recent significant improvement in permit issuance (39 of the 45 permits issued in the past two years were issued in the last three months of your audit period). This improvement, and the many others you note in the report, are a result of the development of the comprehensive workplan containing detailed goals and objectives for the program.

As you note, on September 1, 1983 a new enforcement program was initiated containing new policies and procedures to aggressively pursue violators of hazardous waste control laws. Because this policy became effective immediately after the end of your audit period, you were not able to evaluate its effectiveness.

I am pleased to inform you that a statewide enforcement coordinator has been named, numerous enforcement actions, both criminal and civil have been taken.

Thomas W. Hayes
Auditor General
Page 2

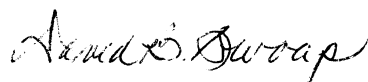
As you concluded:

"Since January 1983, the department has developed a workplan that specifies the goals for all of its programs, has implemented written procedures to guide its permit activities, has developed workload standards to estimate the number of staff necessary to meet its permit goals, and has instituted a permit tracking system to monitor the status of its permit activities."

The Department of Health Services will be providing details of the above accomplishments in their quarterly Report to the Legislature on the workplan accomplishments and I will make sure you receive a copy of that report.

Our responses to specific comments and recommendations contained in your draft report are attached. We hope that these responses will improve the informative value of your revised report and assure its utilization as a positive vehicle for continued improvement of the state's hazardous waste management program.

If you or your staff wish to discuss our responses, please contact Joel Moskowitz (2-7202) or Rich Wilcoxon (4-1826) of the Department of Health Services.



DAVID B. SWOAP
Secretary *DS*

ATTACHMENT

SPECIFIC RESPONSES TO THE AUDITOR GENERAL'S REPORT

Comment

On page ii, paragraph 2, it is stated, "During federal fiscal year 1982-83, the department inspected over 800 facilities that generate, store, treat, or dispose of hazardous waste. However, it still does not effectively resolve violations of hazardous waste control laws. Department records show that it has not followed up on violations at over 170 facilities. Consequently, the department cannot assure that these violations have been corrected. In addition, the department has applied few sanctions against violators of hazardous waste; since our last report, only three fines totaling \$155,000 have been levied as a result of enforcement actions involving the department. Further, because the department has not held public hearings in order corrective action or to revoke or suspend registrations of permits, the department is not adequately deterring violators of hazardous waste laws. Effective September 1, 1983, the department initiated a new policy to pursue violators of hazardous waste control laws more aggressively."

Response

The report does not adequately acknowledge the significance of the Department's new enforcement policy. On September 1, 1983 the Department of Health Services implemented an enforcement policy which fundamentally changed the enforcement practices of the Department in order to ensure proper protection of the public and environment.

The new enforcement policy requires mandatory and vigorous action against persons who violate the hazardous waste control laws and regulations. The key elements of the new policy are:

1. Accelerated use of both civil and criminal penalties for pollution cause by hazardous waste disposal in addition to assessment of cleanup costs to responsible parties.
2. Appointment of a statewide enforcement coordinator to improve liaison with local prosecutors, accelerate prosecutions in local courts and continuously monitor major cases.
3. A detailed procedures manual for Department staff has been developed to assure that violations are properly reported and that required evidence is promptly obtained.

Since implementation of the enforcement policy, the Department has requested monetary settlement and corrective action from 14 firms which have been found to be in violation of the hazardous waste control laws and regulations. The requests for monetary settlement have ranged from \$25,000 to \$100,000. These firms include a number of wood preserving firms and one of the largest hazardous waste disposal sites in the state.

In addition, the department, in cooperation with the Alameda and Tehama County District Attorneys, have filed criminal and civil charges against a firm accused of illegally transporting and dumping hazardous waste in Tehama County.

Comment

On page iii, paragraph 1, "... the department still has not developed standards for containers used to haul hazardous waste and standards for driver training to ensure that hazardous waste is transported in safe vehicles by properly trained drivers."

Response

This statement focuses only on two elements of the state's program for monitoring the transportation of hazardous waste. It does not even reflect the audit results presented on page 23 of the report (i.e., that the California Highway Patrol feels the existing standards "provide sufficient cri-

teria for inspection to assure that hazardous waste is transported in safe vehicles"). Nor does the summary, or the text matter, reflect the fact that the existing container standards and regulations allow the Department to take action against haulers using inappropriate containers. Existing U.S. Department of Transportation regulations provide container specifications and packaging criteria for many hazardous wastes. Finally, the summary fails to indicate that both the container regulations and the driver training regulations have been drafted and that adoption is scheduled for February 1984.

Comment

On page 16, paragraph 1, the report states that "...the department does not adequately followup to ensure that the violator complies with the cleanup plan."

Response

This situation is being addressed through implementation of the Department's new enforcement guidelines.

Comment

On page 17, paragraph 3, the report states "... the regional offices still operate without written procedures and workload standards for enforcement activities."

Response

The new enforcement guidelines were implemented to respond to such criticism. The Department is continuing its efforts to improve, and where necessary revise, test the accuracy of the projected workload standards based on the new enforcement policy.

Comment

On page 20, paragraphs 1 and 2, the report states "The department has referred 37 cases to local city and district attorneys and to the Attorney General for legal action, however, only 14 cases have actually been taken to court, these actions resulted in three fines of \$100,000, \$47,500, and \$7,500 ... Department officials told us that they prefer not to take stronger enforcement actions because such action may result in lengthy and expensive court action; staff must spend time gathering evidence and appearing in court."

Response

Prior to the initiation of the new enforcement program, it was the Department's policy to give priority to the mitigation of situations threatening public health and the environment. As a result, emphasis was most often placed on remedial action, while referrals to the courts were reserved for flagrant violations and recalcitrant operators. These elements will now operate in parallel.

Comment

On pages 24 through 26, the report indicates that large numbers of manifests are not matched to assure that the wastes they document go to proper disposal because errors on the manifests cause them to be placed in a computerized suspense file.

Response

One of the functions of the Hazardous Waste Information System (HWIS) is to provide a mechanism for matching generator copies of hazardous waste manifests with disposal site copies to assure that the wastes documented on the manifest go to proper disposal. Equally important, the HWIS extracts data from the manifests to develop a quantitative and qualitative overview of the state's hazardous waste stream with specific information on wastes generated by individual generators and wastes transported to individual transfer, storage, treatment or disposal facilities.

To assure the accuracy of this waste stream data, a number of computer edits are performed on the manifest. If that information is incorrect or fails the edit process because of incomplete data in the computer files, the manifest goes to a suspense file. Data from the manifests that are in suspense are not written to the waste stream history file and the manifests are not matched. This is not done until on-line error corrections are made. Three reasons account for the large suspense file:

1. Software design problems have been encountered that have unnecessarily caused records to be written to the suspense file. This is being corrected on an ongoing basis.

2. At the time the HWIS was designed, it was anticipated that approximately 60,000 manifests per year would be received. The actual number of manifests being received is approaching 120,000 per year.
3. Failure to utilize the HWIS's activity reporting system has resulted in failure to provide updated information for the facility files. This can result in edit failures. This problem is being addressed.

Comment

On page 27, paragraph 1, the report states that weaknesses in the department's plans to clean up sites also contributed to the department's inability to spend all available monies for cleanup of hazardous waste sites.

Response

The above comment and similar comments made on page 27, first paragraph, last sentence; page 36, last sentence; page 37, first paragraph; and page 39, last sentence, infer that the Department had no plans for expenditures for FY 1982-83. In fact, in March and April 1982, the Department submitted to the Legislative Analyst proposed allocations for Superfund remedial activities at six specific Superfund sites and a general allocation of funds for 11 additional listed sites. Along with these allocations of funds, a list of specific activities that were to be initiated at each site was provided.

The Department's inability to expend all available monies in the Superfund account was influenced by the lack of confirmation that the Superfund program would have \$10 million available for expenditure. As late as December 1982, program staff were informed by the Board of Equalization that only \$8.257 million was available in the Hazardous Substance Account for FY 1982-83 Superfund activities. Accordingly, modifications were made in the program's plans for expenditures in order to assure the Department of Finance and the Legislative Analyst that the funds available would not be overexpended.

Comment

On page 37, the first paragraph states, "The Department of Health Services has been slow in implementing legislative requirements to issue permits to facilities that handle hazardous waste, to enforce hazardous waste laws, and to monitor the transportation of hazardous waste. Until July 1983,

the department had not implemented performance goals based on realistic estimates of the amount of work it could accomplish. Further, the department still has not developed written procedures to guide all its activities and has not established workload standards to determine staffing levels necessary to meet its goals. Additionally, the department has not fully utilized its automated management information system to monitor its program activities, and problems with its automated system for matching manifests have prevented it from effectively tracking the shipment of hazardous waste."

Response

This paragraph is very misleading as it does not acknowledge the range of significant accomplishments made in the program since January 1983, which you acknowledge elsewhere in the report.

SUMMARY OF PREVIOUS AUDITOR GENERAL REPORT
ON CALIFORNIA'S HAZARDOUS WASTE MANAGEMENT PROGRAM

Report P-053, October 1981--California's Hazardous Waste Management Program Does Not Fully Protect The Public From The Harmful Effects of Hazardous Waste

Summary of Findings

We reviewed the Department of Health Services' program for managing and controlling hazardous waste. The primary goal of the program is to protect the public and the environment from the improper storage, treatment, transportation, and disposal of hazardous waste. We found, however, that the department has made limited progress in implementing legislative requirements and has ineffectively enforced hazardous waste control laws. As a result, neither the public nor the environment is sufficiently protected from the harmful effects of hazardous waste.

The department's program for issuing permits to facilities that treat, store, or dispose of hazardous waste is intended to upgrade facilities' operations and to provide the department with a means for applying and enforcing standards. Yet, we found that the department has issued permits to only 18 of the estimated 1,200 hazardous waste facilities in California--that is, less than 2 percent of all hazardous waste facilities statewide have been issued permits. Moreover, these 18 facilities do not include all of those receiving the most hazardous wastes. Because of these conditions, the department cannot assure that hazardous waste facilities are operated in compliance with state standards. With the assistance of our consultants, we found examples of facilities not in compliance with minimum operating standards and instances where facilities were using unsafe operating practices. Although the department cites limited staffing and an increased workload as causes for these conditions, it failed to lower its workload standards and goals to reflect the actual time required to process permits.

In addition, the department lacks an effective enforcement program to identify and correct violations of hazardous waste control laws. Because it has not routinely inspected most of the State's hazardous waste facilities, it cannot effectively assess their compliance with state standards or identify violations. Also, the department does not consistently resolve violations of hazardous waste control laws. In several incidences of illegal and improper waste handling, the department failed to take adequate steps to ensure corrective action. And because the department lacks enforcement criteria, it does not apply sufficient sanctions and penalties to deter those violating hazardous waste control laws. Primarily, these problems have resulted from insufficient staffing and from the department's not having developed a system for managing its enforcement efforts.

Finally, the department has not effectively monitored and controlled the transportation of hazardous waste. Because the department has not adopted regulations implementing legislation passed almost two years ago, it has improperly registered waste haulers and has not ensured that transport vehicles are inspected for compliance with safety standards. Also, the department's system for monitoring waste shipments from production to final disposal is faulty. The department, consequently, cannot detect improper disposal practices and cannot ensure that wastes arrive safely at authorized disposal sites.

The department has recognized many of the problems detailed in this report and has planned and initiated corrective action to improve its performance in implementing legislative requirements; however, additional improvements are needed.

Recommendations

To address the weaknesses in the hazardous waste management program, the Department of Health Services should institute comprehensive plans for establishing quantitative goals and objectives and performance effectiveness measures for each program. The department should also develop and implement written procedures and systems for managing workload, guiding program activities, and monitoring staff performance in each program.

In addition, the department should develop workload standards for its programs in order to establish staffing levels and justify staffing requests. It should also streamline procedures for reviewing and approving regulations, and it should develop a comprehensive management information and reporting system.

STATE SUPERFUND PROGRAM
HAZARDOUS WASTE SITES, 1982

<u>Rank</u>	<u>Site Name</u>	<u>County</u>
1	McColl	Orange
2	Shell Oil Company/Pacific Gas and Electric	Contra Costa
3	Aerojet/Cordova Chemical	Sacramento
4	Stringfellow	Riverside
5	Iron Mountain Mine	Shasta
6	Zoecon Corporation/Chipman Chemical	San Mateo
7	MGM Brakes	Sonoma
8	ASARCO	Contra Costa
9	Cadillac Fairview	Los Angeles
10	Coast Wood Preserving, Inc.	Mendocino
11	Koppers Company, Inc.	Butte
12	Southern Pacific Railroad	Sacramento
13	Westinghouse	Santa Clara
14	Purity Oil Sales	Fresno
15	Selma Pressure Treating	Fresno
16	Liquid Gold	Contra Costa
17	Lyle Van Patten Paints	Los Angeles
18	Hoopa Veneer/Humboldt Fir	Humboldt
19	FMC Newark	Alameda
20	Westinghouse	Alameda
21	Celtor Chemical Corporation	Humboldt
22	Balakala	Shasta
23	Metten and Gebhardt	San Francisco
24	Jibboom Junkyard	Sacramento
25	Koppers Chemical	Los Angeles
26	ABEX	Los Angeles
27	Wildberg Brothers/Healy Tibbits	San Mateo
28	General Electric	Alameda
29	El Capitan	San Diego
30	Valimet	San Joaquin
31	Stauffer Chemical	Contra Costa
32	Holaco Engineering	Ventura
33	Cal Pacific Lumber	Humboldt
34	FMC Richmond	Contra Costa
35	Hazel Avenue Ponds	Sacramento
36	TCL Corporation	Los Angeles
37	Point Pinole (Bethlehem Steel Corporation)	Contra Costa
38	United Heckathorn Company	Contra Costa
39	Chemical and Pigment Company	Contra Costa
40	Electro Coating, Inc.	Alameda

<u>Rank</u>	<u>Site Name</u>	<u>County</u>
41	Mammoth Mine	Shasta
42	Apache Services	San Diego
43	Sun Chemical Corporation	San Mateo
44	Llano Barrels	Los Angeles
45	Point Isabel	Contra Costa
46	Plessey Micro Science	Santa Clara
47	Leslie Salt	Alameda
48	Capri Pumping	Los Angeles
49	Leviathon Mine	Alpine
50	Hirshdale Dump	Nevada
51	The Clorox Company	Alameda
52	Wickes Forest Products	Solano
53	Trojan Powder Works Co.	Alameda
54	Centex Properties	Contra Costa
55	Macy's Flying Service	Siskiyou
56	Pacific Gas and Electric/ Martin Service Center	San Mateo
57	Gardena Sumps	Los Angeles
58	Walker Mine	Plumas
59	White Rock Road	Sacramento
60	Stauffer	Los Angeles

STATE SUPERFUND EXPENDITURES AND
STATUS OF CLEANUP PROJECTS AT
HAZARDOUS WASTE SITES
(As of June 30, 1983)

Rank*	Site Name/(County)	Expenditures			Status of Cleanup Projects				
		Salaries**	Contracts	Total	Securing*** Funding	Collecting Data	Evaluating Alternatives	Preparing Cleanup Plan	Implementing Cleanup Plan
1	McColl (Orange)	\$ 61,000	\$ 653,300	\$ 714,300	partially completed	completed	completed	partially completed	
4	Stringfellow (Riverside)	82,300	373,000	455,300	in progress	partially completed			
5	Iron Mountain Mine (Shasta)	5,100	0	5,100	in progress	partially completed			
14	Purity Oil Sales (Fresno)	23,400	0	23,400	in progress				
21	Celtor Chemical Corp. (Humboldt)	15,900	0	15,900	in progress	partially completed			
24	Jibboom Junkyard (Sacramento)	8,900	800	9,700	in progress	partially completed			
35	Hazel Avenue Ponds (Sacramento)	2,200	0	2,200	in progress				
44	Llano Barrels (Los Angeles)	10,500	211,100	221,500	completed	completed	completed	completed	completed
48	Capri Pumping Service (Los Angeles)	52,700	345,000	397,700	in progress	partially completed	partially completed	partially completed	
	Other Sites	49,400	0	49,400					
	Totals	\$311,400	\$1,583,100	\$1,894,500					

*Rank on Department of Health Services' list of State Superfund Program Hazardous Waste Sites, 1982.

**Salary expenditures for Superfund program staff are estimates based on the department's tabulation of employee time cards.

***In identifying a funding source for a cleanup project, the department attempts to secure funds from a liable party or the federal government before committing state funds. The department reevaluates the availability of funds from the federal government and liable parties at various intervals throughout the cleanup project and attempts to secure these funds as they become available.

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Director of Finance
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps