

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

**THE STATE'S HAZARDOUS WASTE
MANAGEMENT PROGRAM NEEDS TO
IMPROVE ITS PERSONNEL PRACTICES
AND COMMUNITY RELATIONS**

REPORT BY THE
OFFICE OF THE AUDITOR GENERAL

P-582.4

THE STATE'S HAZARDOUS WASTE MANAGEMENT PROGRAM
NEEDS TO IMPROVE ITS PERSONNEL
PRACTICES AND COMMUNITY RELATIONS

AUGUST 1986



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August 21, 1986

P-582.4

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' personnel practices, community relations, and public information system for its Hazardous Waste Management Program.

Respectfully submitted,

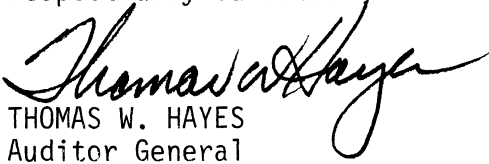

THOMAS W. HAYES
Auditor General

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SUMMARY

RESULTS IN BRIEF

Five of the Auditor General's nine previous audits of the Department of Health Services' (department) administration of the State's hazardous waste management program attributed program deficiencies to a lack of staff or to inexperienced staff. During this review, we found that the department not only needs to develop more efficient personnel practices but also needs to improve the community relations program and the public information systems within its hazardous waste management program.

BACKGROUND

The purpose of California's hazardous waste management program is to protect the public health and the environment from the harmful effects of toxic waste. The department is responsible for administering the program by regulating the generation, treatment, storage, transportation, and disposal of hazardous waste. In addition, the department manages the State's program to clean up hazardous waste sites and to clean up releases or spills of hazardous material that may pose a threat to the public health or the environment.

PRINCIPAL FINDINGS

Inefficient Personnel Practices

Personnel practices for the State's hazardous waste management program are inefficient. Positions are allowed to remain vacant for an average of 2.8 months because the department has a lengthy hiring process, has problems attracting job candidates, and is not adequately analyzing program needs and determining the type of personnel classifications required. As a result, on

September 30, 1985, the program had a vacancy rate of approximately 22 percent; at the same time, the statewide vacancy rate was only 5.8 percent. Additionally, from July 1, 1984, through March 30, 1986, the program's average vacancy rate was 19.5 percent. Because of the high vacancy rate, during this 21-month period the department lost approximately 73 personnel years that could have been used to accomplish program goals. The lack of staffing was one of the causes of program deficiencies identified in previous Auditor General reports.

Inconsistent Community Relations Programs and Inadequate Public Information Systems

The department does not ensure that community relations plans are developed for all hazardous waste cleanup sites. The Environmental Protection Agency requires the development of community relations plans for all federal cleanup sites. However, for cleanup actions that are funded by the State or responsible parties, the department did not require the development of community relation plans for all the sites in our review. Additionally, the department does not always comply with state laws concerning access to information or with department policies concerning justification of trade secrets, and the department does not always respond adequately to requests for access to information or to public inquiries. As a result of these conditions, hazardous waste cleanup actions may be delayed and cleanup costs increased, the public's right of access to public records is improperly restricted, and the department does not increase public understanding and support of the department and its role in administering the State's hazardous waste management program.

The Department Has Taken Corrective Actions

The department has made several changes to improve personnel practices and community relations. The department has recently delegated authority to the Toxic Substances Control Division for testing and maintaining

certified lists for technical positions, the division is augmenting its personnel services staff, and the department is combining several of the steps required to hire personnel. According to the department, as of June 30, 1986, the vacancy rate in the toxics division was approximately 13 percent. Also, during our review, the Los Angeles and Emeryville regional offices changed their policies to allow access to public records during all business hours. On July 1, 1986, the department's chief deputy director advised all section chiefs to make records available upon request.

RECOMMENDATIONS

The Department of Health Services should take the following actions:

- Improve personnel practices by formalizing personnel procedures and providing training for personnel staff, by adequately determining program personnel needs, by streamlining the hiring process, and by increasing recruiting efforts;
- Establish uniform methods for developing and reviewing community relations plans;
- Ensure that its divisions comply with state law concerning access to public records and with department policies concerning justification of trade secrets; and
- Establish uniform methods for responding to public inquiries.

AGENCY COMMENTS

The Department of Health Services concurs with our recommendations and says it will incorporate them into the department's continuing efforts to improve the recruitment and hiring of staff for the Toxics Substances Control Division. The department also states that it has either filled or made commitments to fill 95.2 percent of all positions allocated to the division for fiscal year 1985-86. In

addition, the department intends to fully implement our recommendations concerning the division's community relations program and its public information system.

INTRODUCTION

The objective of California's hazardous waste management program is to protect the public health and the environment from the harmful effects of toxic waste. The Department of Health Services (department) is responsible for carrying out this objective. The department regulates the generation, treatment, storage, transportation, and disposal of hazardous waste. In addition, the department manages the State's program to clean up hazardous waste sites and to clean up releases or spills of hazardous material that may pose a threat to the public health or the environment.

Legislation

In 1972, the Legislature passed hazardous waste control legislation to establish a program to ensure the safe generation, storage, treatment, and disposal of hazardous waste. The act authorized the department to administer the program.

In 1976, the federal government enacted the Resource Conservation and Recovery Act, which required the federal Environmental Protection Agency (EPA) to develop comprehensive standards for controlling hazardous waste and to implement a national hazardous waste management program. This legislation 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.

On April 22, 1986, the EPA announced its tentative decision to grant final authorization to California's hazardous waste management program. Final authorization is subject to public review and comment from April 22, 1986, through June 4, 1986. The EPA will announce its final decision in August 1986.

In 1980, the federal government enacted the Comprehensive Environmental Response, Compensation, and Liability Act to provide, among other things, funds for state governments and the federal government to use to clean up hazardous waste sites and releases of hazardous material. This act 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.

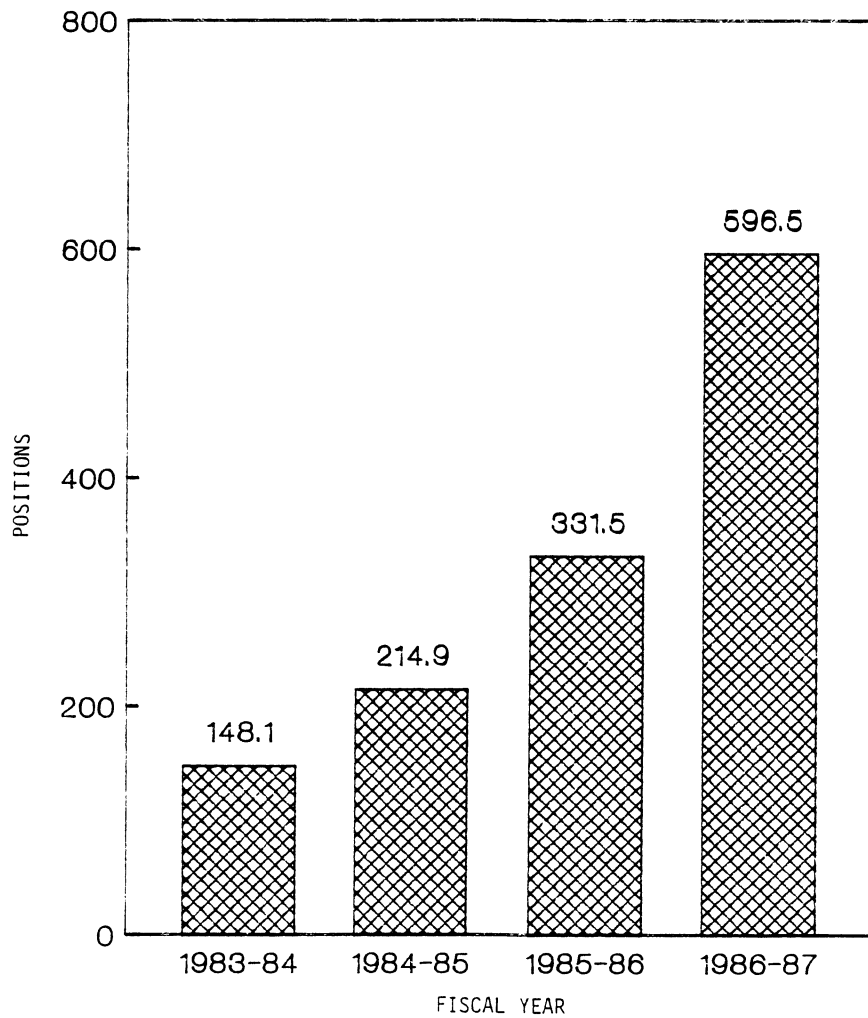
In 1981, in response to this legislation, California established the Superfund program. The Superfund program provides \$10 million annually to pay for the State's share of cost to clean up hazardous waste sites and to clean up sites for which funds from the federal program or the responsible parties are not available. Further, in 1984, the Hazardous Substance Cleanup Bond Act was passed, authorizing the sale of \$100 million in bonds to provide funds for the cleanup of hazardous waste.

Program Administration

In 1981, the department created the Toxic Substances Control Division (toxics division) to continue to implement and enforce the California hazardous waste management program. The toxics division, which has its headquarters in Sacramento, has regional offices in Emeryville, Los Angeles, and Sacramento and a branch office in Fresno. The headquarters office provides centralized coordination in developing policy and regulation, providing technical review and support, managing Superfund account and bond funds, and implementing statewide programs. The toxics division conducts its field inspection and enforcement activities out of the regional and branch offices. Figure 1 shows the growth in staff of the toxics division since 1983-84. (An organization chart for the toxics division is presented in Appendix A.)

FIGURE 1

GROWTH OF THE TOXIC SUBSTANCES CONTROL DIVISION
FISCAL YEARS 1983-84 THROUGH 1986-87



Source: The Governor's Budget and the Department of Health Services; we did not audit these figures.

As Figure 1 shows, the toxics division's staff increased from approximately 148 budgeted positions in 1983-84 to approximately 596 approved positions in fiscal year 1986-87, an increase of over 300 percent. Staff size increased approximately 80 percent from fiscal year 1985-86 to fiscal year 1986-87.

Most of the funding for the department's hazardous waste management program comes from fees collected from operators of hazardous waste disposal facilities, from haulers of hazardous waste, and from taxes collected from facilities that generate hazardous waste. In addition, the federal government provides monies to support the program, and bond monies are also available to clean up sites. The 1986-87 Governor's Budget proposed a budget of \$40.4 million for the toxics division.

Previous Auditor General Reports
on California's Hazardous
Waste Management Program

Since 1981, the Auditor General has issued nine reports on the State's hazardous waste management program. Five of these reports attributed program-related problems to a lack of staff or to inexperienced staff. A summary of these five reports follows.

In October 1981, the Auditor General reported on the department's efforts to issue permits to hazardous waste sites, to enforce hazardous waste control laws, and to control the transportation

of hazardous waste. The report concluded that, as a result of weaknesses identified in each of these activities, neither the public nor the environment was sufficiently protected from the harmful effects of hazardous waste. The department cited insufficient staffing as one of the principal causes of these weaknesses. Inadequate assessment of staffing needs and problems in obtaining approval to hire personnel were also cited. (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.)

In November 1983, the Auditor General issued a follow-up report to the 1981 report. This report concluded that the department had been slow to issue permits to facilities that handle hazardous waste, to enforce hazardous waste laws, and to monitor the transportation of hazardous waste. Insufficient staffing and delays in hiring staff caused by the state hiring freeze were cited by the department as the primary causes for these weaknesses. However, the department also lacked workload standards for determining staffing needs. (This report is entitled "The State's Hazardous Waste Management Program: Some Improvement But More Needs To Be Done," Report P-343.)

In January 1984, the Auditor General issued a follow-up informational report to the 1983 report. This report concluded that there were unwarranted delays in the Superfund program's contracting process. One of the reasons for the delays was the staff's lack of

knowledge of the contracting process. (This report is entitled "Department of Health Services' Superfund Program: Follow-up Information," Report P-343.1.)

In March 1986, the Auditor General reported on the department's contracts for toxic-related services and for the cleanup of hazardous waste sites. The report concluded that the department is not procuring these contracts in accordance with all state and federal requirements and is not complying with all of the provisions of its agreements with the EPA. Additionally, the report concluded that the department has poorly managed the State's contracts for the cleanup of hazardous waste sites. According to this report, procurement deficiencies were the result of the staff's inexperience in administering contracts. Also, department officials attributed inadequate contract monitoring to a lack of staff. (This report is entitled "The Department of Health Services Needs Better Control of Hazardous Waste Contracts," Report P-582.1.)

In May 1986, the Auditor General issued a follow-up report to the 1981 and 1983 reports on the State's hazardous waste program. This report concluded that the department has improved its efforts in some areas but needs continued improvement in regulating facilities in California that handle hazardous waste. Department officials cited insufficient staff and difficulties in recruiting and hiring capable staff as major reasons for not fully administering the program. (This

report is entitled "The State's Hazardous Waste Management Program Has Improved In Some Areas; Other Areas Continue To Need Improvement," Report P-582.2.)

Corrective Action Taken
by the Department
In Response to Previous Audits

The department has developed a corrective action plan and proposed augmentations to the fiscal year 1986-87 budget for an additional 148.6 staff positions and for approximately \$13.3 million to improve the State's administration of its hazardous waste management program. The department's corrective action plan addresses the issues identified in Report P-582.2, such as the need for reliable management information, for tracking systems, and for enforcement of hazardous waste laws. The plan also established schedules for implementing the corrective actions.

SCOPE AND METHODOLOGY

The purpose of this audit was to assess the department's personnel practices, its public information systems, and its community relations program for the State's hazardous waste management program. We reviewed the department's personnel records for the toxics division for July 1, 1984, through March 31, 1986. We also reviewed the department's performance in complying with state and federal laws and with department policies for providing access to public records,

responding to public inquiries for information, and implementing community relations plans for hazardous waste site cleanups.

In conducting this audit, we interviewed personnel in the department and in the toxics division. We also reviewed records at the department, at the toxics division's headquarters, and at each of the regional and branch offices. Additionally, we interviewed staff in the EPA and in the State Department of Personnel, former employees of the toxics division, and individuals who had requested information or access to public records. We also obtained information on the educational background and employment history of certain managers in the toxics division. This information is presented in Appendix B.

AUDIT RESULTS

I

THE DEPARTMENT IS SLOW IN FILLING VACANT POSITIONS

The Department of Health Services (department) is not efficiently planning and administering the personnel functions for the State's hazardous waste management program. According to the department's director of personnel services, it should take only 30 days to fill positions if the personnel documents are promptly prepared; however, we found that positions in the toxics division remain vacant for an average of 2.8 months. Some positions have remained vacant for up to 10 months because the department has not formalized hiring procedures, has a lengthy hiring process, has problems in attracting job candidates, and is not adequately analyzing program needs and determining the position classifications required to fulfill program responsibilities. Because the department has not filled positions, the hazardous waste management program's vacancy rate was approximately 22 percent on September 30, 1985, while the statewide vacancy rate was 5.8 percent on the same date. As a result of the high vacancy rate, during the 21-month period that we reviewed, the department lost approximately 73 personnel years that could have been used to accomplish program goals. As we have already noted, the lack of staff was one of the causes of program deficiencies identified in previous Auditor General reports.

According to the department's director of personnel services, the department should take from 15 to 30 workdays to process all the personnel documents required to hire a new employee if the documents are properly prepared when submitted to the Personnel Services Section. According to the department's personnel staff and a department flowchart, 5 workdays are needed to review and analyze classification and pay issues, and 10 workdays are needed to send notification letters to candidates and prepare department documents for the transaction. An additional 5 to 10 workdays are needed if approvals are required from the Department of Finance, the State Personnel Board, and the department's Budget Office. However, the deputy director for the hazardous waste management program believes that the entire hiring process can be performed within 10 workdays and requested additional staffing through a budget change proposal for the 1986-87 fiscal year to help reduce the processing time. The budget change proposal states that shortages of staff in the division's personnel unit have resulted in lengthy delays in classifying positions and in processing personnel transactions. The request also states that, with additional staff, most personnel hiring actions should be processed within 5 to 10 workdays.

We found that the department took an average of approximately 2.8 months to fill positions in the toxics division during the 21-month period that we reviewed. Between July 1, 1984, and March 31, 1986, there were 434 position changes in the toxics division. Position changes occur when the budget process establishes new positions or when

a position is left vacant because an employee retires, resigns, is promoted, is demoted, or is transferred. Of the 434 position changes, 304 (approximately 70 percent) involved a vacancy of at least one month. Figure 2 illustrates the length of vacancies among the 304 position changes.

FIGURE 2

**LENGTH OF VACANCIES
AMONG 304 POSITION CHANGES
IN THE TOXIC SUBSTANCES CONTROL DIVISION
JULY 1, 1984 THROUGH MARCH 31, 1986**

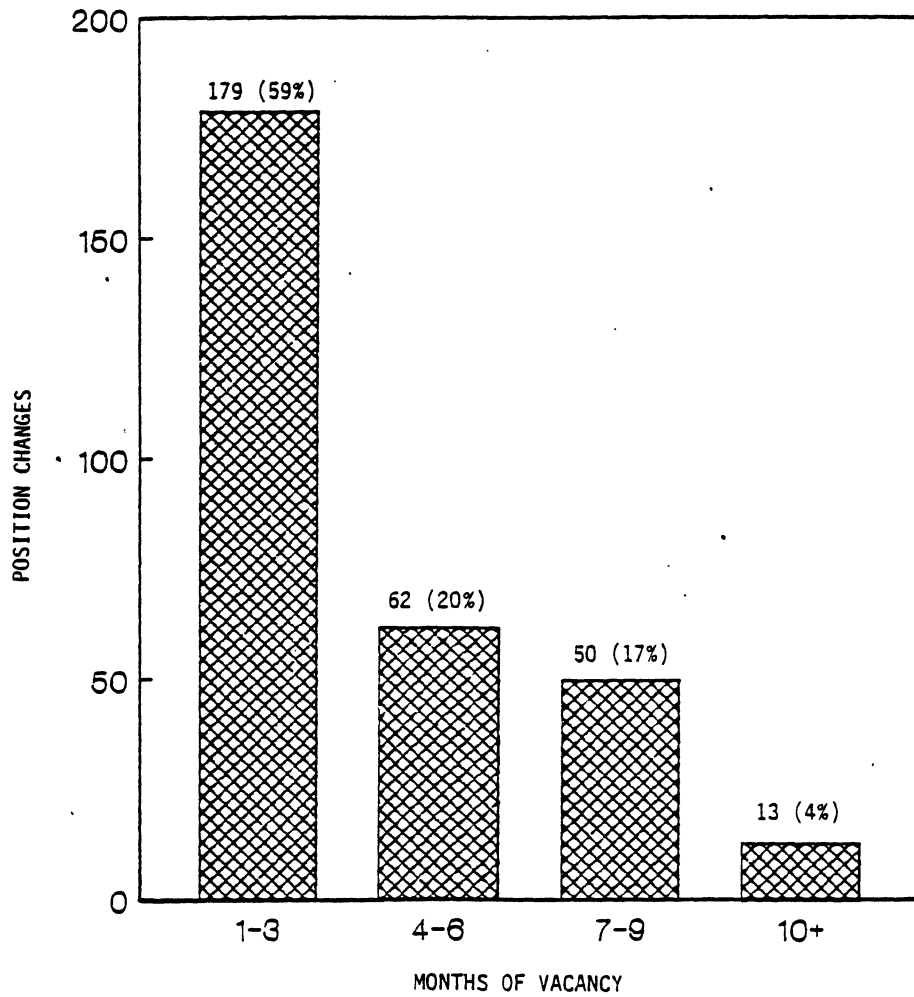


Figure 2 shows that for the 304 position changes that involved a period of vacancy, 179 positions (approximately 59 percent) were vacant for one to three months, 62 positions (approximately 20 percent) were vacant for four to six months, 50 positions (approximately 17 percent) were vacant for seven to nine months, and 13 positions (4 percent) were vacant for ten or more months.

Between July 1, 1984, and March 31, 1986, vacancies occurred in 70 percent of the position changes. During this 21-month period, the 151 positions established through the budget process took an average of approximately 3.4 months to fill, while the 283 vacancies due to retirements, resignations, promotions, or transfers took an average of 2.4 months to fill.

Causes of the Delays In Filling Vacancies

The department is taking a long time to fill toxics division positions because the department's hiring process is not formalized and its personnel review process is unnecessarily long. In addition, the department has problems attracting job candidates and keeping staff, and it does not request the appropriate positions.

Hiring Procedures Not Formalized

The department has not formalized its policies and procedures for preparing and processing personnel documents. The department's

director of personnel services stated that, although these procedures are not in written form, they are explained in conversations with toxics division staff. He also stated that the staff in the toxics division's personnel unit are experienced in personnel work and should know the procedures used by the department.

According to the toxics division's personnel manager, personnel transactions are often delayed because staff in the department's Personnel Services Section continually ask for additional information before processing transactions. The director of personnel services for the department says these delays occur because toxics division staff do not provide enough information on documents they submit to the department's Personnel Services Section. He stated that the toxics division does not provide adequate duty statements, organization charts, medical statements, and other required documents. Also, staff in the department's Personnel Services Section spend additional time verifying the accuracy of documents that the toxics division prepares. Often the Personnel Services Section staff cannot make informed decisions because documents do not have enough detail. The toxics division's personnel manager stated that many delays could be eliminated if all staff knew what information is needed and when it is needed.

Because the department has not provided the toxics division with clear, written procedures for preparing personnel documents, the toxics division's personnel unit cannot adequately inform the

appropriate staff of the required procedures. Section chiefs and administrative employees in the Northern California Section, Southern California Section, and the Site Cleanup and Emergency Response Section stated that, because they had not received formalized, written personnel procedures, their personnel paperwork is often rejected, and delays occur while the employees in their sections try to rectify problems.

Lengthy Reviews

The department's personnel process involves multiple reviews. Initially, section chiefs and administrative employees send personnel documents to the toxics division's personnel unit for review. The personnel unit approves the documents and submits them to the department's Personnel Services Section. There, department personnel assistants review the forms for accuracy and completeness and forward them to personnel analysts, who review the forms for appropriateness of classification and salary levels. Transactions involving either reclassifications or positions above a designated salary level may require approval by the State Personnel Board, the department's Budget Office, or the Department of Finance. After the reviewers approve the forms, the Position and Certification Unit sends a certified list of candidates to the toxics division. Candidates on the certified list are contacted and interviewed. Once a candidate is selected, his or her appointment application is reviewed by the department's Personnel Services Section for completeness. In certain cases, the appointment

must also be reviewed by the department's Office of Civil Rights and its Budget Office. Once these reviews are completed, payroll information is provided to the State Controller's office, and the candidate is officially hired.

In addition to the process described above, the toxics division must advertise the position in the department's Opportunities Bulletin for ten workdays, the interview panel must be selected, and the interview questions and scoring criteria must be developed. Until July 1985, the department's Civil Rights Office reviewed all paperwork for toxics division personnel before candidates were officially hired. According to several of the section chiefs, often the Civil Rights Office delayed in approving the duty statement, interview questions, and scoring criteria even though this office had previously approved the same documents for the same type of classifications.

Each transaction document is reviewed by many individuals, and delay at one or more steps of the process can affect the toxics division's ability to fill position vacancies promptly. According to the department's director of personnel services, even though there are numerous steps in the staffing process, some of the steps can and should be carried out simultaneously. For example, the toxics division can select the interview panel while the department's personnel analyst reviews the paperwork to ensure that classifications are appropriate. Also, the toxics division can obtain the certified lists at the same time the position is being advertised in the Opportunities Bulletin.

The department's director of personnel services stated that the toxics division's management is not completing these personnel steps at the same time as the steps are being completed by the department's Personnel Services Section. Instead, the steps are being processed one after another.

Additional delays in filling positions have occurred because the toxics division has had to sometimes wait several months for a certified list of candidates. Appointments from certified lists must be made within 60 days after the list has been developed. One section chief indicated that he had to wait four months for the department to provide a certified list because none existed for the desired classification. Another section chief indicated that his section had received several certified lists that were valid for only two weeks, and this was not enough time to contact and interview candidates and to make appointments. The department has recently delegated authority to the toxics division for testing and maintaining certified lists for technical positions.

Finally, because the department takes so long to process the paperwork required to appoint successful candidates to positions, the department has lost prospective employees. If the candidates choose not to wait, the department may have to go through the staffing process again. One toxics division section chief gave an example regarding the attempt to fill a Waste Management Specialist II position. The candidate was identified, and the toxics division provided the

department with the appropriate paperwork and a request to hire the individual at a salary step above the usual starting rate. Three months later, when the paperwork still had not been approved by the department's Personnel Services Section, the individual decided not to wait any longer for an official appointment. The Personnel Services Section then identified another person to fill the same position. As of July 24, 1986, the candidate has waited three months for the approval of his appointment. Meanwhile, the position remains vacant. In another case, a prospective employee waited two months for official appointment to a position and then accepted a position with the Legislature.

Difficulties of Attracting Job Candidates and Keeping Staff

Another major reason why the department is taking an average of approximately 2.8 months to fill vacant positions in the toxics division is that job candidates are difficult to attract and employees are hard to keep because private industry and other public agencies pay higher salaries for similar positions. Also, the department's recruiting efforts are not effective or timely; thus, the best available job candidates may not be recruited.

According to career placement officers at several California universities, positions in the private hazardous waste management industry command higher salaries than comparable state positions. Graduating seniors in engineering, for example, are offered higher

salaries by private industry than by the State. In fact, a career placement officer at the University of California, Davis, stated that private companies usually offer entry level technicians salaries that are 10 percent to 20 percent higher than salaries offered by the State.

Furthermore, other state agencies use personnel classifications that require equivalent or similar duties and education levels but pay more than the positions used by the toxics division. For example, the State Water Resources Control Board and the Regional Water Quality Control boards employ Environmental Specialists to perform work that the department hires Waste Management Specialists to perform. However, the Environmental Specialist position pays approximately 5 percent to 9 percent more than the Waste Management Specialist position; therefore, candidates who qualify for both these positions are more likely to choose employment with the State Water Resources Control Board or the Regional Water Quality Control boards.

Several section chiefs stated that they have lost personnel to other state agencies, and the State Water Resources Control Board and the Regional Water Quality Control boards plan to increase their technical staff by 100 positions in fiscal year 1986-87. Twenty-six of these positions are classifications used in the toxics division. The deputy director and section chiefs in the toxics division expressed concern that they will lose even more technical personnel to other state agencies.

The department's difficulties in attracting employees are further aggravated because the department does not effectively recruit employees for the toxics division. According to the manager of the special task force at the toxics division, recruiters from the department visit college campuses approximately one month after most other recruiters do. Therefore, the department may be offering information about job positions in the toxics division too late for graduates to consider the department equally with other employers.

In addition, until November 1985, the department relied on one recruitment analyst to do all of the recruiting for the department. In November 1985, a second recruitment analyst was hired. The toxics division's new recruitment analyst stated that she was added in November 1985 because one analyst could not conduct a comprehensive recruitment program for the division.

Finally, in the past, the department did not establish recruitment goals. However, the department's current Hazardous Waste Management Program Workplan sets recruitment objectives for fiscal year 1986-87. One objective is to participate in at least twelve recruitment or job fairs for engineers and scientists; another objective is to place recruitment ads in at least six trade magazines. A third objective is to obtain a recruitment specialist contractor to establish an aggressive plan to recruit engineers and scientists for the toxics division. However, the manager of the special task force at the toxics division indicated that, since publication of the workplan,

the division has determined that a recruitment specialist will be hired only if the division's new recruiting program, which will be tested in the fall of 1986, does not succeed.

The Department Does Not Always
Request the Appropriate Positions

The department does not always request the appropriate positions through the budget process. In addition, the department has not developed workload standards for adequately determining the number and type of positions required to accomplish specific goals.

Fourteen (19 percent) of the 72 positions approved for the toxics division through the 1984-85 Budget Act, and 18 (21 percent) of the 85 positions approved through the 1985-86 Budget Act were changed by the toxics division to other classifications before they were filled. The director of personnel services stated that there were several reasons for the changes in the classifications requested. One reason is that the department may not be accurately determining the appropriate positions required for the work to be performed.

The deputy director of the hazardous waste management program stated that new positions might be reclassified because personnel staff from the department do not participate in the preparation of budget requests. Therefore, some positions approved through the budget process are later disapproved by the department's personnel analysts because the classification requested is not appropriate for the job

duties. For example, the toxics division may request and receive several Waste Management Engineer positions. When the toxics division attempts to fill the positions through the department's Personnel Services Section, the Personnel Services Section may decide that the job duties would be more appropriately performed by Waste Management Specialists. Consequently, the staffing process can be delayed while the toxics division is required to submit new paperwork.

Additionally, the department has not developed workload standards for adequately determining the number and type of positions required to accomplish the program goals for all of the toxics division's activities. For example, some section chiefs stated that standards have been developed for issuing permits to hazardous waste facilities, inspecting facilities, and enforcing regulations. Also, the chief of the Site Cleanup and Emergency Response Section stated that estimated workload standards for cleaning up hazardous waste sites have not yet been compared to the actual time required to perform the activities and, therefore, will require refinement before they become reliable.

As a result of the lengthy hiring process, the difficulty in attracting candidates, and the inadequate analysis of program needs, as of September 30, 1985, the department's hazardous waste management program had a vacancy rate of 22 percent; at the same time, the statewide vacancy rate was only 5.8 percent. Additionally, from July 1, 1984, through March 31, 1986, the division had an average

monthly vacancy rate of 19.5 percent. According to information provided by the State Controller's office, on September 30, 1985, there were high vacancy rates for two of the major technical positions for the toxics division. For example, the vacancy rate for the Associate Engineering Geologist classification was 45 percent, and the vacancy rate for the Waste Management Engineer position series was 27 to 29 percent.

Some positions are left vacant for so long that the department has to change the position numbers in order to keep the positions. Section 12439 of the Government Code states that positions that are continuously vacant between October 1 and June 30 of the same fiscal year are to be abolished by the State Controller's office. As of April 18, 1986, 26 positions in the toxics division had been vacant since October 1, 1985. To keep these positions, the department had to fill or reclassify them. For example, in the toxics division's Office of Public Information and Participation, an Information Officer position was vacant from May 1985 through April 1986. To keep the position, the department transferred another Information Officer into the vacant position. Therefore, the formerly filled position has been vacant only since May 1986, and the formerly vacant position is now filled, even though no new staff were hired.

As stated before, from July 1, 1984, through March 31, 1986, the toxics division had 304 position vacancies that lasted one month or

more. If the toxics division had been able to reduce those vacancy periods to one month, it would have added to its staff approximately 73 personnel years.

As the Auditor General has reported in previous reports and as we noted in the Introduction of this report, the department is not carrying out permitting, inspection, and enforcement activities because of insufficient staffing. For example, in a May 1986 report entitled "The State's Hazardous Waste Management Program Has Improved in Some Areas; Other Areas Continue to Need Improvement" (P-582.2), the Auditor General reported that the department does not always follow up on violations that are reported or discovered. According to some of the section chiefs, since the department gives priority to inspecting major cleanup facilities, the regional offices do not have sufficient staff to ensure that all violators take corrective action.

The deputy director of the hazardous waste management program stated that he is aware of the problems caused by allowing positions to remain vacant for an extended period of time and that the department is taking corrective action to decrease the amount of time it takes to fill vacant positions.

Corrective Action Taken

The department has made several recent changes that may decrease the amount of time it takes to fill vacant positions. For

example, instead of relying on the department to provide test scores and lists of candidates, the toxics division is now able to test candidates for its vacant positions. Since June 1986, the toxics division has been able to continuously test candidates for technical positions, and it is also able to merge the candidates' scores into existing certified lists. Additionally, the toxics division has obtained the assistance of the State Personnel Board to formulate a testing program that complies with the State Personnel Board's standards.

In addition, according to the toxics division's personnel unit manager, the toxics division has combined the testing and interviewing steps for staffing technical positions. As vacancies occur, the toxics division may hire the first person on its certified lists without having to do additional interviews. Additionally, the Civil Rights Office now reviews technical positions and some supervisory positions after appointments are made.

Furthermore, according to the toxics division's personnel unit manager, the toxics division will augment its personnel services staff with a personnel analyst. The personnel analyst will spend half the time at the toxics division and the other half at the department's Personnel Services Section. The toxics division will supervise the personnel analyst and determine the issues that need work; however, the department's Personnel Services Section will supervise the personnel analyst on the appropriate methodology for accomplishing the tasks.

The intent of this arrangement is to have personnel paperwork from the toxics division arrive at the department's Personnel Services Section ready to be approved.

To increase the department's attractiveness to prospective employees and to maintain current staff, the department has created a task force to review and develop a new classification series of positions. This new classification series will more accurately describe the duties performed by hazardous waste management personnel, and the salaries for these positions will be more closely aligned with salaries for similar positions in other state agencies. Finally, the department provided information indicating that, as of June 30, 1986, the vacancy rate for the toxics division was 13 percent.

CONCLUSION

The Department of Health Services is not filling vacant positions in the toxics division promptly. Because the department does not efficiently plan and administer personnel activities, positions in the toxics division remain vacant an average of 2.8 months. Some positions have remained vacant for up to 10 months because the department has a lengthy hiring process, has problems in attracting job candidates, and is not adequately determining the type of classifications required to fulfill program needs. Because vacant positions are not being filled promptly, the toxics division's vacancy

rate as of September 30, 1985, was 22 percent; the statewide rate at this time was 5.8 percent. As a result of the toxics division's high vacancy rate, the hazardous waste management program lost approximately 73 personnel years from July 1, 1984, through March 31, 1986. Previous Auditor General reports identified a lack of staff as one of the causes of program deficiencies.

RECOMMENDATIONS

To improve the administration of personnel activities in the hazardous waste management program, the department should ensure that certified lists for the most commonly used classifications are kept current and that the toxics division implement its plans to recruit more candidates for vacant positions. The department should also ensure that recruiting on college campuses is done at the appropriate time in the academic year.

To simplify and speed up the processing of personnel transactions, the department should use standard duty statements, interview questions, and scoring criteria for each classification. The department should eliminate unnecessary reviews and the unnecessary processing of documents.

The department should provide written directions for preparing personnel documents. Additionally, the department should ensure that section employees acting as personnel liaisons within the division receive proper training for their responsibilities.

The department should improve its decisions regarding staff needs in the toxics division by refining existing workload standards and developing workload standards for activities that do not have any.

Finally, the department's Personnel Services Section staff should assist the toxics division in determining the appropriate personnel classifications to request through the budget process.

II

THE DEPARTMENT DOES NOT ALWAYS DEVELOP COMMUNITY RELATIONS PLANS AND IMPROPERLY RESTRICTS ACCESS TO PUBLIC RECORDS

The department does not ensure that a community relations plan (CRP) is developed for each hazardous waste cleanup site. Also, the department does not always comply with state laws concerning access to information or with its own policies concerning justification of trade secrets. Finally, the department does not always respond adequately to public inquiries. As a result of these conditions, the department does not ensure that adequate information is provided to the public and may, as a result, incur higher cleanup costs; the department restricts the public's right of access to public records; and the department does not increase public understanding and support of its role in administering the State's hazardous waste management program.

The Department Does Not Ensure That Community Relations Plans Are Developed for All Hazardous Waste Cleanup Sites

The department does not ensure that a CRP is prepared for each hazardous waste cleanup site in California. Although the federal government requires the development of CRPs for all federal Superfund cleanup sites, the department does not always require CRPs for all state cleanup sites. When the department does not require CRPs for all

cleanup sites, the department is not ensuring that adequate information is provided to the public, and the department may, as a result, incur higher cleanup costs.

Hazardous waste cleanup sites have the potential to evoke strong public concern. The health and environmental problems stemming from releases of hazardous substances are sensitive public issues. When citizens believe that their mental and physical health is jeopardized, strong community action can be expected.

A potential obstacle to the success of California's hazardous waste cleanup program is that the results of the State's cleanup and enforcement efforts may differ from the expectations of citizens concerned about the hazardous waste cleanup sites. Although a cleanup method may meet all the legal and technical criteria established by the department for the cleanup, the method may still be perceived as inadequate by citizens living and working near the site. A community relations program not only enables the department to take community concerns into account and keep the public informed during the cleanup of a hazardous waste site, but it also enables the public to participate in the department's decisions concerning the site. The result can be a cleanup action that satisfies state and federal criteria and, at the same time, keeps citizens accurately informed of the cleanup action. A community relations program, therefore, can be a very effective mechanism to avoid or resolve conflicts between citizens and the department through communication and cooperative decision-making.

The purpose of a CRP is to specify how a community relations program at a specific hazardous waste cleanup site will be implemented. The CRP details how citizens' concerns will be identified and assessed, how information about the site will be distributed and explained to the community, how the cleanup alternatives will be explained to the community, and how citizens will be granted opportunities to participate in decisions concerning ongoing and proposed work on the site.

California's Health and Safety Code Section 25356.1 requires the department to either prepare or approve remedial action plans for all hazardous waste sites on the State's cleanup lists. A remedial action plan describes a cleanup site's history, identifies the hazardous wastes located at the site, and presents the alternative methods the department proposes to clean up the site. Section 25356.1 further states that all remedial action plans are to be based on the National Oil and Hazardous Substances Pollution Contingency Plan, which consists of federal regulations that describe the phases of a hazardous waste site cleanup. According to the Environmental Protection Agency (EPA), these regulations require cleanup personnel to be sensitive to local community concerns when planning cleanup actions. Based on this interpretation, the EPA has developed guidelines that state that it is important to initiate community relations measures when a hazardous waste cleanup site is first identified. Furthermore, the guidelines require CRPs for all federal Superfund cleanup sites. Since state law requires remedial action plans to be based on the National Oil and

Hazardous Substances Pollution Contingency Plan, we believe CRPs should also be developed for state hazardous waste cleanup sites.

As of May 1986, the department was responsible for conducting or overseeing the cleanup of 17 of the 53 hazardous waste sites in California that are on the federal National Priorities List. Sixteen of these 17 federal sites have CRPs. According to department staff, community relations for the remaining site is conducted in conjunction with other cleanup sites.

Since September 1, 1985, the department has contracted to begin state-financed cleanup of 24 hazardous waste sites. However, the department required its contractors to develop CRPs for only 7 of these sites, although we believe that, as of May 31, 1986, community relations measures should have been implemented for 14 of the 24 sites.

The department has also entered into 25 enforceable agreements with "responsible parties" to clean up hazardous waste sites. Enforceable agreements, which are agreements between the department and the individuals responsible for cleaning up specific hazardous waste sites, describe the actions the department requires the responsible party to take to clean up the site. As of May 31, 1986, community relations measures should have been implemented for 23 of these sites. However, the department specifically required CRPs for only 3 sites. As stated previously, we believe CRPs should be prepared for all hazardous waste cleanup sites.

In addition, the department is not consistent in determining which sites require CRPs. For example, the department required its contractor to develop a CRP for the Verticare Helicopters cleanup site. At this site, pesticides were illegally stored and disposed of. Unrinsed pesticide containers were deposited in a municipal trash bin, and pesticides from other containers flowed into a nearby gully as the containers were being rinsed out. The project officer for this site stated that there was potential public interest because the site was near an irrigation source and because there had been both television and radio coverage of the cleanup of this site.

However, for a similar hazardous waste site, the B.O.R. Industries site in West Sacramento, the department did not require its contractor to develop a CRP. At this site, the owners stored used oil and other hazardous wastes, and concentrations of heavy metals were found in the ground near equipment at the site. The department determined that there was a potential for groundwater contamination, which the department has stated is a major concern. The cities of Bryte, Broderick, and West Sacramento, which are in the immediate vicinity of the B.O.R. Industries, depend on groundwater for home use. The project officer stated that she has not yet required the development of a CRP for the site because she believes that the cleanup is not yet at a stage at which community relations measures are necessary. However, according to the Director of Public Health for Yolo County, there is already community interest in this site. Furthermore, we could find no evidence that the department or the state

contractor contacted people living or working near the site to determine the level of community concern.

In explaining why the department has not required the development of CRPs for all hazardous waste cleanup sites under its jurisdiction, a regional section chief, who is responsible for community relations in his region, stated that there has been a lack of commitment by the toxics division management to developing CRPs for all sites. He further stated that the toxics division has not established guidelines for developing and implementing CRPs. Without these guidelines, the toxics division's staff develop their own methods and criteria. For example, one waste management engineer we interviewed could not provide us with specific criteria for determining that a CRP was necessary; he stated that he determined whether he would require a CRP by a "gut-level feeling."

Additionally, the toxics division staff that is responsible for reviewing work orders for CRPs and the proposed CRPs themselves are not trained or experienced in community relations. For example, the toxics division uses an associate governmental program analyst to review proposed CRPs submitted by contractors. This analyst stated that she does not have any training or experience in community relations. Although the department has a community relations staff, the staff stated that they do not review all proposed CRPs; they review only those proposed CRPs that they specifically request from the Site Mitigation Management Unit.

The chief of the Site Mitigation Management Unit stated that at the time the toxics division developed the review process for contractor responses to work orders, the toxics division did not consider including the community relations staff in the review process. The review of the CRPs by the department's Office of Legal Services and its Office of Procurements and Contracts and by the toxics division's Site Mitigation Management Unit was therefore considered to be sufficient. When we asked the toxics division's community relations staff to review two CRPs that had already been reviewed by these offices, the community relations staff described the CRPs as inadequate. For example, one of the CRPs did not include the establishment of a community information repository, which the staff believe is important for supplying information to communities near hazardous waste cleanup sites. The staff also noted that one of the CRPs did not include a community assessment, which is necessary to determine the level of community concern about the cleanup site and to develop a community mailing list.

Because the department does not require CRPs for all hazardous waste sites under its jurisdiction, the department is not ensuring that adequate information is provided to the public during the cleanup of all hazardous waste sites. As a result of its lack of information, the public may reject proposed cleanup solutions. The EPA reviewed the cleanup activities for 21 hazardous waste sites across the United States and found that a community relations program can ensure that the concerns and questions of the public are incorporated into the cleanup

agencies' decision-making process. If a CRP is not implemented for a cleanup site, concerned community members may call their elected officials and delay the cleanup until public officials clarify and explain what actions are taking place. Prompt cleanup of hazardous waste sites is important because, as contamination continues, the cost to clean up these sites increases and the likelihood of a complete cleanup decreases.

The Department Does Not Always Adequately Respond to the Public

The department does not always comply with state law concerning public access to information or with its own policies concerning its justification of trade secret claims. Also, the department does not always respond adequately and promptly to public inquiries. Consequently, the department is restricting the public's right of access to public records, and the department does not increase the public's understanding and support of the department and its regulation of the State's hazardous waste management program.

Access to Records

Public access to state records is allowed by the California Public Records Act. Section 6256 of the Government Code states that agencies receiving requests for access to information must determine whether they will grant access to requested records within ten days after they receive the request and must immediately notify the

requester. Section 6253 states that every person has a right to inspect any public record and that public records are open to inspection at all times during the office hours of the state agency.

The department does not always comply with the requirements of the Government Codes regarding access to department records. For example, the toxics division's Los Angeles and Emeryville regional offices limit access to department records to specific days: the Los Angeles office allows access on Wednesdays only, while the Emeryville office allows access to records on Tuesdays through Thursdays. We contacted 11 individuals who requested access to department records and found that 6 of them experienced some inconvenience and frustration because they were required to review files only on specific days. For example, 3 people stated that their work schedules conflicted with the toxics division's schedule for public review of files. We discussed this issue with the section chiefs of these offices, and they changed their policies to allow access to department records during all business hours.

Furthermore, we reviewed 33 requests for access to the toxics division's records, and we could determine in only 4 cases that the toxics division notified the requestor within the 10-day time limit. In 3 other cases, the toxics division notified the requestor more than 37 days after the request was made. However, the toxics division did not maintain adequate records to allow us to determine whether it notified the remaining 26 individuals within the required 10 days after

the department received their requests. In one instance, a consultant with an environmental consulting firm who was attempting to update a report stated that she requested access to the toxics division records in December 1985 and, as of July 25, 1986, the toxics division had not provided access to some of the requested information. The consultant further stated that the toxics division denied her access to department records after it had already approved her request. When the department does not properly respond to requests for access to its records, the department improperly restricts the public's right of access to public records.

Trade Secret Claims

According to state law, the department cannot release certain types of information to individuals who request access to department records. One type of exempt information is a trade secret. Section 25173 of the Health and Safety Codes defines trade secrets as tools or information that are not patented, that are known only to certain individuals within an industry, and that give their users an advantage over their competitors. State laws prohibit the department from releasing trade secrets without the consent of their owners.

The department has established policies to ensure that trade secret claims are legitimate and that legitimate trade secrets are not released to individuals who request access to agency records. According to a department director's policy memo dated August 18, 1982,

the department requires the owners of trade secrets to justify their trade secret claims when the department receives a request for access to department records. If the department does not receive a justification of the claim from the owner, the department will release that information to the individual who requested the information.

However, the toxics division does not always follow department policies concerning justification of trade secret claims. For example, the staff of the Los Angeles regional office stated that they do not always notify hazardous waste facility operators that the toxics division has received a request for access to department records concerning their facilities, nor do they always require hazardous waste facility operators to justify all trade secret claims. The Los Angeles regional office has adopted an informal policy of reviewing information for which a request has been received to determine which information may be considered a trade secret. However, as stated above, department policies require the facility operators to justify all trade secret claims.

Because it does not require facility operators to justify trade secret claims, the Los Angeles regional office may be withholding from the public information that facility operators do not consider to be a trade secret. According to Section 6259 of the Government Code, if a court determines that an agency's decision to withhold requested information is not justified, the agency may be liable for court costs and reasonable attorney fees. Additionally, the agency may incur staff

costs for defending itself. For example, in 1985, a public interest group took the Department of Food and Agriculture (DFA) to court for not allowing access to information. The court determined that the DFA was not justified in denying the group access to its records and required the DFA to allow the group the requested access. According to the group's staff counsel, the group will file for reimbursement of court costs and attorney fees in the near future.

This same public interest group took the Department of Health Services to court in 1981. In this case, the department provided the requested information before the court's ruling and thus did not have to pay court costs or the group's attorney fees. The State did, however, incur costs for preparing the department's defense. We could not determine the extent of these costs.

Responses to Public Inquiries

To increase the public's understanding and support of the department and its role and to promote good relations with the general public, the press, public officials, and the Legislature, the department needs to respond adequately and promptly to public inquiries. In our review of the methods used by the toxics division to respond to public inquiries, we found that the regional offices use a system that enables them to respond promptly and adequately to public inquiries. However, we found that the toxics division's Sacramento headquarters office does not always respond to public inquiries promptly or adequately.

Each of the three regional offices of the toxics division designates specific staff to respond to public inquiries. Additionally, two of the regional offices use a reference manual to assist them in responding to or referring inquiries. However, the Sacramento headquarters office does not require its staff to forward inquiries to the public information staff, nor does it have a reference manual to assist staff in responding to or referring public inquiries. On several occasions, we observed three of the headquarters' clerical staff, who are not public information professionals, answering technical questions from the public and referring callers' questions to other staff. One caller was referred to several different staff but finally gave up when the call was referred back to the clerical staff and the clerical staff did not know where else to refer the call.

Also, on June 2, 1986, the Auditor General reported on the department's response to a request to test the soil of a Riverside County family, the Harmans, for toxic substances (Report P-582.3). This report concluded that the department failed to communicate promptly and decisively with the family, and, therefore, caused the family unnecessary confusion, frustration, and anxiety. First, the department did not determine if it was appropriate for the toxics division to take the lead role in responding to the Harmans' request. Secondly, after the toxics division started its investigation, it did not designate one person to explain to the Harmans exactly what the toxics division would do and to keep the Harmans informed throughout the investigation. Nor did the department provide the Harmans with

accurate information, which might have lessened their confusion and frustration. Because the department failed to communicate properly and directly, the Harmans became increasingly frustrated, confused, and suspicious of the department. This report recommended that the department make an initial investigation quickly, decide what actions it will and will not take, and communicate those decisions to the requestor. The report further recommended that one person be assigned the responsibility for coordinating an investigation and keeping the requestor informed.

State laws concerning access to agency records and department policies concerning justification of trade secret claims are not being followed because the department is not ensuring that these laws and policies are implemented. Furthermore, the department has not established uniform procedures for responding to public inquiries or, if necessary, referring these inquiries to appropriate staff for response. The department also does not ensure that its response to inquiries is adequate and prompt. Because the department is not adequately or promptly responding to public inquiries, the department is not presenting the best possible image to the public.

Corrective Action Taken

As stated previously, during our review, the Los Angeles and Emeryville regional offices changed their policies to allow access to public records during all business hours. In addition, on

July 1, 1986, the chief deputy director sent a memo to all section chiefs directing them to make records available upon request.

CONCLUSION

The Department of Health Services does not always ensure that community relations plans are developed for all hazardous waste cleanup sites. As a result, the department may incur higher cleanup costs and project delays, and the public is not kept informed of hazardous waste cleanup actions. Additionally, the department does not always comply with state laws concerning access to department records. Consequently, the department is improperly restricting the public's access to department records. Furthermore, the department does not always comply with its own policies to justify trade secret claims and, as a result, may be improperly withholding information from the public. Finally, the department does not always adequately respond to public inquiries and, therefore, does not increase public understanding and support of the department's role in the State's hazardous waste management program.

RECOMMENDATIONS

To improve its community relations program for hazardous waste cleanup sites, the department should ensure that the toxics

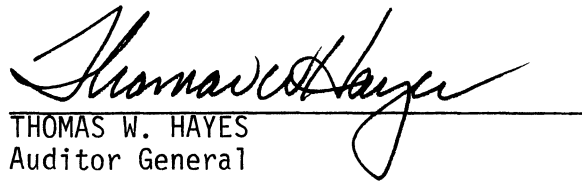
division establish uniform methods for developing and reviewing community relations plans. Additionally, the department should ensure that individuals skilled in community relations develop or review all proposed community relations plans.

The department should ensure that all toxics division sections comply with state law concerning access to public records and with department policies concerning justification of trade secret claims.

Finally, the department should establish uniform procedures for responding to public inquiries and for referring these inquiries to the appropriate staff. These procedures should include a monitoring mechanism to ensure that the response to inquiries is adequate and prompt. The department should also consider centralizing the handling of public inquiries and developing a reference manual to assist its staff in responding to public inquiries or in referring these inquiries to other staff.

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.

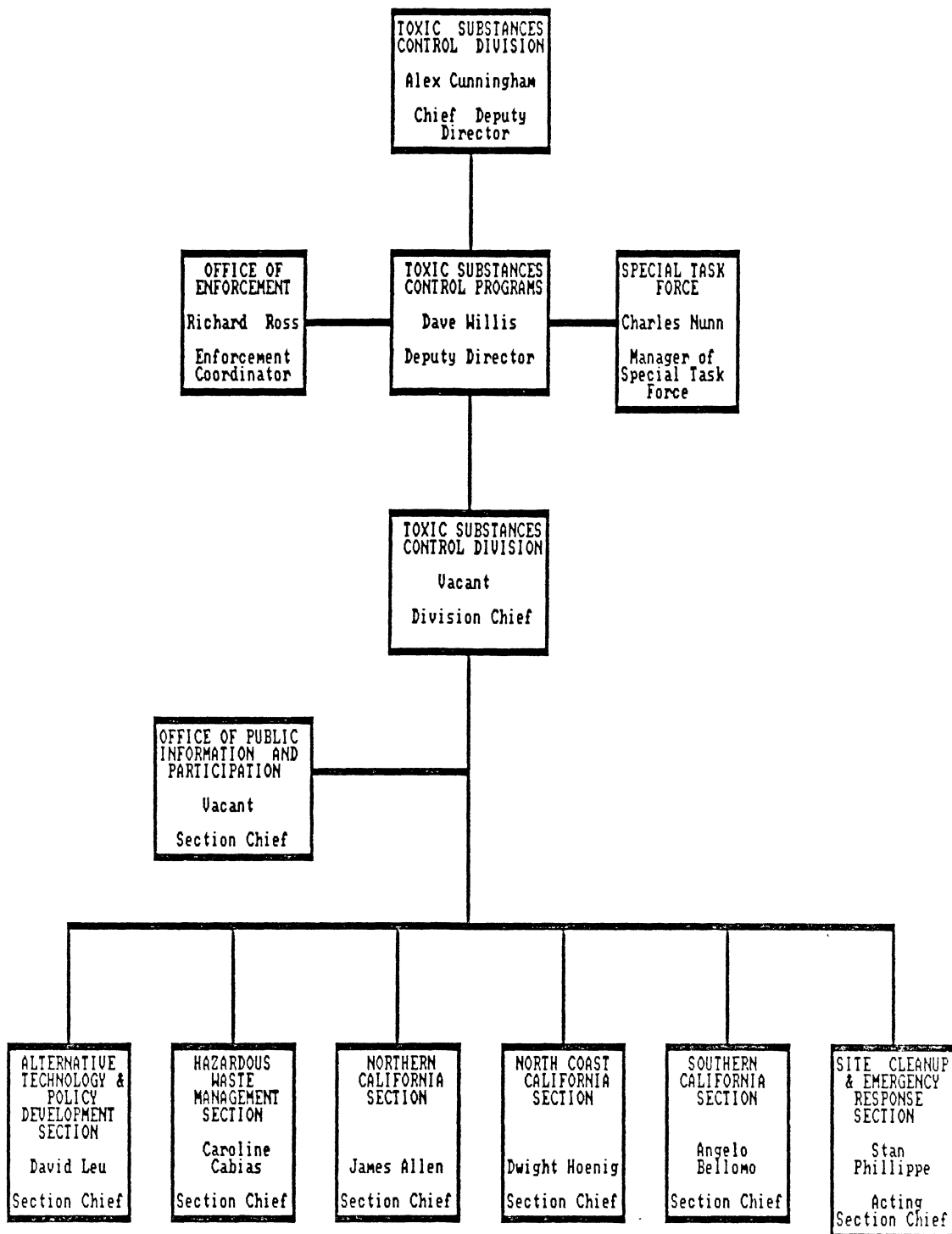
Respectfully submitted,


THOMAS W. HAYES
Auditor General

Date: August 18, 1986

Staff: William S. Aldrich, Audit Manager
Gary Colbert
Dale A. Carlson
Kay Overman
Bahman Chubak

DEPARTMENT OF HEALTH SERVICES
 TOXIC SUBSTANCES CONTROL DIVISION
 ORGANIZATION CHART
 FEBRUARY 1986



EDUCATIONAL BACKGROUND AND EMPLOYMENT HISTORY OF
SELECTED DEPARTMENT OF HEALTH SERVICES EMPLOYEES

<u>Name</u>	<u>Formal Education</u>	<u>Employment History</u>
Cunningham, Alex R.	Bachelor of Science in Engineering	1959-1970: Engineer Division of Highways, State of California
	Graduate of U.S. Army Command and General Staff College	1970-1971: Assistant Secretary, Communications Business and Transportation Agency State of California
		1971-1972: Assistant Secretary, Communications Health and Welfare Agency State of California
		1972-1974: Assistant Director, Field Operations Office of Emergency Services State of California
		1974-1975: Chief Deputy Director Office of Emergency Services State of California
		1975-1976: Emergency Planning Coordinator Department of Transportation State of California
		1976-1977: Logistics Officer, Military Department California National Guard
		1977-1978: Deputy Director, Drought Emergency Task Force State of California

Name	Formal Education	Employment History
Cunningham, Alex R. (Continued)		<p data-bbox="256 814 289 957">1978-1983</p> <p data-bbox="256 317 354 768">Director Office of Emergency Services State of California</p> <p data-bbox="386 814 418 957">1983-1986</p> <p data-bbox="386 302 483 768">Chief Deputy Director Department of Water Resources State of California</p> <p data-bbox="516 835 581 957">1986 to Present:</p> <p data-bbox="516 233 641 768">Chief Deputy Director Toxic Substances Control Division Department of Health Services State of California</p>

<u>Name</u>	<u>Formal Education</u>	<u>Employment History</u>
<u>HEADQUARTERS STAFF</u>		
Willis, C. David	Bachelor of Arts in Government	1965: History Clerk for the California State Senate
		1965-1967: Assistant Budget Analyst, Department of Education State of California
		1967-1971: Assistant and Associate Budget Analyst, Department of Water Resources State of California
		1971-1975: Budget Officer, Department of Water Resources State of California
		1975-1977: Chief of Administration, Agricultural Labor Relations Board State of California
		1977-1979: Principal Program Budget Analyst, Department of Finance State of California
		1979-1982: Assistant Program Budget Manager, Department of Finance State of California
		1982-1986: Program Budget Manager, Department of Finance State of California
		1986 to Present: Deputy Director Toxic Substances Control Division Department of Health Services State of California

Name	Formal Education	Employment History
Ross, Richard Manning	Bachelor of Arts in Economics Juris Doctor Member of California State Bar	1972: Legal Researcher, Colorado State University 1973-1977: Legal Counsel, Department of Health Services State of California 1977-1986: Deputy Attorney General Attorney General's Office State of California 1986 to Present: Hazardous Waste Enforcement Coordinator Toxic Substances Control Division Department of Health Services State of California

Name	Formal Education	Employment History
Nunn, Charles A.	Associate of Arts in Accounting	1963-1971 Auditor State Controller State of California 1971-1974: Staff Services Manager Medi-Cal Field Audits Department of Health Services State of California 1974-1981: Field Office Chief Fiscal and Medi-Cal Reviews Department of Health Services State of California 1981-1986: Chief, Accounting Section Department of Health Services State of California 1986 to Present: Task Force Team Member Toxic Substances Control Division Department of Health Services State of California

Name	Formal Education	Employment History
Leu, David J.	Bachelor of Science in Meteorology and Oceanography	1974-1975: Research Assistant, Environmental Research Institute of Michigan
	Master of Science in Geological Oceanography	1975-1977: Research Assistant, College of Marine Studies University of Delaware
	Doctorate in Ocean Engineering	1977-1980: Principal Environmental Specialist, Department of Environmental Protection State of New Jersey
		1980-1981: Environmental Scientist, Department of Environmental Protection State of New Jersey
		1981-1982: Assistant Bureau Chief, Bureau of Hazardous Waste Department of Environmental Protection State of New Jersey
		1982-1984: Bureau Chief, Bureau of Hazardous Waste, Classifications and Manifest Department of Environmental Protection State of New Jersey
		1984 to Present Chief, Alternative Technology and Policy Development Section, Toxic Substances Control Division Department of Health Services State of California

Name	Formal Education	Employment History
Cabras, Caroline F.	Bachelor of Arts in Political Science	<p>1972-1975: Personnel Analyst, State Personnel Board State of California</p> <p>1975-1977: Chief, Employment Services Section Civil Rights Office Department of Health State of California</p> <p>1977: Chief, Community Care Section Licensing and Certification Division Department of Health State of California</p> <p>1977-1978: Assistant Deputy Director, Licensing and Certification Division Department of Health State of California</p> <p>1978-1980: Chief, Personnel Management Branch Administrative Division Department of Health State of California</p> <p>1980-1983: Assistant Director Division of Administrative Services Department of Food and Agriculture State of California</p> <p>1983-1984: Chief, Eligibility Branch Medi-Cal Policy Division Department of Health Services State of California</p>

Name	Formal Education	Employment History
Cabras, Caroline F. (Continued)		1984-1985: Chief, Office of Procurements and Contract Division of Administrative Services Department of Health Services State of California
		1985 to Present: Chief, Hazardous Waste Management Section Toxic Substances Control Division Department of Health Services State of California

Name	Formal Education	Employment History
Allen, James T.	Bachelor of Arts in Physical Sciences	1958-1960: Engineering Aide, Boeing Company
	Master of Arts in Biological Sciences	1960-1964: Area Sales Representative, Van Waters and Rogers, Inc.
	Ph.D. in Ecology	1964-1971: Area Sales Representative, McKesson Chemical Company
		1971-1974: Research Assistant, Department of Water Science and Engineering University of California, Davis
		1974-1975: Environmental Specialist III, Division of Water Quality State Water Resources Control Board State of California
		1975-1976: Chief, Special Studies Unit Division of Water Quality State Water Resources Control Board State of California
		1976-1980: Chief, Environmental Analysis Section Division of Water Quality State Water Resources Control Board State of California
		1980-1983: Chief, Hazardous Waste Surveillance & Monitoring Section Technical Services Division State Water Resources Control Board State of California
		1983 to Present: Chief, Northern California Section Toxic Substances Control Division Department of Health Services State of California

Name	Formal Education	Employment History
Hoenig, Dwight R.	Bachelor of Science in Geology Master of Science in Environmental Science	<p data-bbox="256 443 354 955">1975-1976: Staff Geologist, Hurt Oil Corporation Dallas, Texas</p> <p data-bbox="386 331 516 955">1976-1978: Staff Geologist, United States Environmental Protection Agency Region VI</p> <p data-bbox="548 296 699 955">1978-1981: Chief, Groundwater Protection Section United States Environmental Protection Agency Region VI</p> <p data-bbox="732 331 883 955">1981-1983: Chief, Superfund Operations Section United States Environmental Protection Agency Region VI</p> <p data-bbox="915 233 1078 955">1983 to Present: Chief, North Coast California Section Toxic Substances Control Division Department of Health Services State of California</p>

Name	Formal Education	Employment History
Bellomo, Angelo J.	<p>Bachelor of Science in Environmental Health Science</p> <p>Master of Science Degree in Occupational and Environmental Health</p>	<p>1973-1974: Loss Control Engineer, Sentry Insurance Company</p> <p>1974-1976: Environmental Health Officer, Los Angeles County Department of Health Services</p> <p>1976-1979: Senior Environmental Health Officer, Los Angeles County Department of Health Services</p> <p>1979-1982: Manager, Toxic Substances Program Los Angeles County Department of Health Services</p> <p>1982-1983: Field Operations Coordinator, Permits, Surveillance and Enforcement Section Toxic Substances Control Division Department of Health Services, State of California, on contract from Los Angeles County</p> <p>1983 to Present: Chief, South California Section Toxic Substances Control Division Department of Health Services State of California</p>

Name	Formal Education	Employment History
Phillippe, Stan	<p>Bachelor of Science in Civil Engineering</p> <p>Master of Science in Environmental Engineering</p> <p>California Registered Civil Engineer</p>	<p>1970-1972: Research Assistant, Environmental Geology Kansas Geological Survey, Remote Sensing Laboratory Center for Research, Inc.</p> <p>1973-1974: Assistant Engineer, Legal and Enforcement Division State Water Resources Control Board State of California</p> <p>1974-1975: Assistant Engineer, Basin Planning Section State Water Resources Control Board State of California</p> <p>1975-1979: Associate Engineer, Planning Section State Water Resources Control Board State of California</p> <p>1979-1982: Senior Engineer, Chief of the Delta Regulatory Section State Water Quality Control Board State of California</p> <p>1982-1984: Senior Waste Management Engineer, Site Cleanup Engineering Unit Toxic Substances Control Division Department of Health Services State of California</p>

Name	Formal Education	Employment History
Phillippe, Stan (continued)		1984-1986: Supervising Waste Management Engineer, Chief, Site Mitigation Unit and Site Mitigation Technical Unit Program Management Section Toxic Substances Control Division Department of Health Services State of California
		1986 to Present: Acting Chief, Site Cleanup and Emergency Response Section Toxic Substances Control Division Department of Health Services State of California

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET

SACRAMENTO, CA 95814
(916) 445-1248

August 13, 1986

Thomas W. Hayes
Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

Dear Mr. Hayes:

I would like to thank you for preparing this report which highlights the concerns regarding the Toxic Substances Control Division's personnel practices, our community relations programs, and public information systems.

We share the view that it is vital to the success of this program that the Division be able to attract and promptly hire qualified individuals. To this end, the Division has, in addition to other steps:

- 1) Undertaken an intensified and successful recruitment effort (95.2% of all positions allocated to the Division for 1985-86 are currently filled or commitments have been made to applicants),
- 2) Achieved parity with other state organizations in the classification of the Division's specialist series, and
- 3) Developed duty statements which will effectively reduce the classification review time required by Personnel.

Other specific responses to your recommendations clearly indicate the positive steps which are now underway to further improve our program.

We intend to fully implement the recommendations concerning the Division's community relations programs and public information systems, thereby bringing them in line with policies and procedures currently in effect within the rest of the Department. These, as well as other changes, should demonstrate the improvements in the Division's efforts and provide needed access to the public records for which the Division is

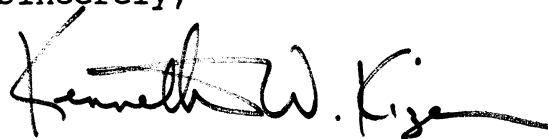
Thomas W. Hayes
Auditor General

-2-

responsible. As an example, on July 1, 1986, the Division adopted policies to ensure public access to records at all hours during the business day.

Again, thank you for your recommendations.

Sincerely,

A handwritten signature in black ink that reads "Kenneth W. Kizer". The signature is written in a cursive style with a long horizontal flourish at the end.

Kenneth W. Kizer, M.D., M.P.H.
Director

Enclosures

Department of Health Services Response to
Auditor General's Report P-582.4
"The State Hazardous Waste Management Program
Needs to Improve Their Personnel
Practices and Community Relations."

RECOMMENDATIONS REGARDING PERSONNEL PRACTICES

"To improve the administration of personnel activities in the hazardous waste management program, the department should ensure that certified lists for the most commonly used classifications are kept current and that the toxics division implement its plans to recruit more candidates for vacant positions. The department should also ensure that recruiting on college campuses is done at the appropriate time in the academic year.

"To simplify and speed up the processing of personnel transactions, the department should use standard duty statements, interview questions, and scoring criteria for each classification. The department should eliminate unnecessary reviews and the unnecessary handling of documents.

"The department should provide written directions for preparing personnel documents. Additionally, the department should ensure that section employees acting as personnel liaisons within the division receive proper training for their responsibilities.

"The department should improve its decisions regarding staff needs in the toxics division by refining existing workload standards and developing workload standards for activities that do not have any.

"Finally, the department's Personnel Services Section staff should assist the toxics division in determining the appropriate personnel classifications requested through the budget process."

RESPONSE

The Department has taken several steps to improve the recruitment and hiring of staff. Additional steps, including some of those contained in the report, will be taken as needed. Planned and specific improvements include:

- o Through the intensified recruitment efforts and subdelegated exam process, hiring commitments have been made on all Hazardous Materials Specialist and engineering vacancies in the Division. All of these positions should be filled by

August 31, 1986. In addition, 95.2% of all positions allocated to the Division for 1985-86 are currently filled or commitments have been made to applicants. This 4.8% vacancy rate compares to the 22% noted in the Auditor General's report.*

- o As of July 29, 1986, the Waste Management Specialist series was reclassified to Hazardous Materials Specialists. These employees have received increases in salary levels to bring them into parity with classes used by both the State and Regional Water Resources Control Boards. This will make the Division more competitive with private industry and reduce the turnover of staff.
- o The Personnel Services Section (PSS) and the Toxic Substances Control Division (TSCD) are developing "generic" duty statements for both the Hazardous Materials Specialist and Waste Management Engineer series. Once in place, the duty statements will effectively reduce the classification review time by Personnel and permit hiring to take place more efficiently. The generic duty statements will be in place by September 1, 1986.
- o A project will be established in PSS to request delegated Hiring Above Minimum (HAM) authority for certain engineering and technical classes used by the Division. HAM authority will permit the Division to offer higher starting salaries to prospective employees based on exceptional qualifications and permit the Division to be more competitive in the job market. The request for delegation will be sent to the Department of Personnel Administration by September 30, 1986.
- o To direct the Department's recruitment efforts, both for affirmative action purposes and for specialized skills, a formal recruitment plan has been developed. The plan contains specific goals and recruitment procedures. As required by the plan, TSCD has designated a Recruitment Coordinator who is to act as the liaison with the Department's Recruitment Section and is responsible for recruitment activities within the Division.

TSCD has also augmented its own recruitment staff by one.

- o The Division has developed a recruiting plan for the Fall of 1986, to be utilized both within and outside of the State. There are plans underway for continuing this effort in the Spring of 1987. The plan should assure more timely recruiting at the various colleges and universities and be beneficial in the creation of a comprehensive list of qualified candidates.

* Auditor General Comment: The 4.8 percent figure is not comparable with to 22 percent vacancy rate on September 30, 1985, noted in the report for two reasons. The 4.8 percent vacancy rate includes vacant positions for which offers have been made, and the department computes an end-of-year vacancy rate for fiscal year 1985-86 using fiscal year 1986-87 hiring information. As stated on page 28, the department provided information indicating that the vacancy rate in the toxics division on June 30, 1986, was approximately 13 percent.

- o The Department's overall hiring process is being studied by a task group. The study encompasses all phases of the hiring process including document processing and classification review, with the primary goal to reduce the time required to hire an employee. It is anticipated the project will be completed and recommendations implemented within the next 60 days. Any changes to the process will permit the TSCD to fill its positions more expeditiously and reduce the time a position is vacant.
- o The Office of Civil Rights has agreed to limit their involvement in the hiring process to a post-hiring review of documents for all Hazardous Materials Specialists and Engineers. The Division is obligated to follow all Department Affirmative Action guidelines but does not need to clear questions, panels, etc. prior to hiring staff.
- o The Division intends to pursue the possibility of establishing an alternative hiring interview process. The process would entail interviewing and placing applicants for positions in a "pool" which should reduce the amount of time devoted to interviews and result in a group of candidates that are immediately available for employment. This should reduce the process substantially, including the need to post notices in the Job Opportunity Bulletin for every vacancy.
- o PSS has subdelegated to TSCD the examination responsibility for the Hazardous Materials Specialist I and II and the Waste Management Engineer and Associate Waste Management Engineer classes. With this delegation TSCD can administer its own examinations through continuous testing and can close testing at any time; the Division can establish timely and updated exam listings and determine which candidates can be offered positions without having to request the information from PSS. This has enabled the Division to reduce the normal examination processing time and has contributed to quicker hires to fill vacant positions.
- o The Division has committed to preparing a zero based budget for 1987/88. This process will require the development of workload standards for all classes used by the Division, particularly in the major activities of site mitigation, permitting, and enforcement.
- o In past years, when the Division's budget was being developed the process did not always include Personnel. In the future, TSCD will consult with Personnel regarding the use of appropriate classifications prior to submission of their Budget Change Proposals.

- o The Division has completed a reorganization that was approved by the Director's office on August 7, 1986. This should be beneficial in providing information to the Department's Personnel Services Section and the Department of Personnel Administration to facilitate their review of the Division's various requests as allocation ratios and reporting relationships will now be clarified.
- o In recent months PSS and TSCD have been meeting regularly to identify and resolve personnel problems and issues. Each meeting addresses all personnel areas, i.e., testing, classification, and transactions, and has proven effective in reducing review and processing delays.
- o The review process has been modified within the Division to assure that documents are properly prepared before these forms are submitted to the Personnel Services Section.
- o PSS has recently hired an additional Associate Personnel Analyst and a Personnel Assistant to specifically meet TSCD personnel needs. The additional staff will permit TSCD classification issues to be addressed quickly and ensure that transaction documents continue to be processed timely.
- o PSS will be providing training on an as needed basis to Division staff on personnel procedures and processes. Arrangements will be made to conduct training on a timely basis. Written directions on personnel document preparation will be reissued to the Division by PSS.

RECOMMENDATIONS FOR COMMUNITY RELATIONS

"...the department should ensure that the Toxics division establish uniform methods for developing and reviewing community relations plans. Additionally, the department should ensure that individuals skilled in community relations develop or review all proposed community relations plans."

RESPONSE

TSCD recognizes the need for a uniform method for developing and reviewing community relations plans. Community relations staff in the Office of Public Information and Participation (OPIP) are currently developing procedures for use by Community Relations Coordinators and technical staff to assess community relations needs. These procedures will outline criteria by which Division staff will define the affected community and the nature and scope of potential affect. After consulting with Division Community Relations Coordinators, Project Officers will then draft task orders to state contractors which will clearly define the contractor's responsibility to assess the need for and to ultimately implement a community relations plan. Task orders will be reviewed by a Community Relations Coordinator before being forwarded to a contractor. All contractor deliverables such as workplans, draft community relations plans, etc., will be reviewed by the Community Relations Coordinator prior to final acceptance by the division.

Additionally, OPIP is reviewing its resources to determine its ability to provide individual assessments for each site described in the Expenditure Plan for the Hazardous Substance Cleanup Bond Act. Until recently, OPIP staff have been responsible for community relations, press relations, response to public inquiry, and industry education. The workload associated with each of these areas of concentration has placed significant demands upon available resources. In order to direct more effort to community relations activities, the division will now refer all press inquiries to the department Office of Public Information.

RECOMMENDATION FOR RESPONSE TO PUBLIC RECORDS ACT REQUESTS

"The department should ensure that all toxics division sections comply with state law concerning access to public records and with department policies concerning justification of trade secret claims."

RESPONSE

The TSCD has taken steps to ensure that all section staff are aware of their responsibility to comply with state law regarding access to public records. Section Chiefs recently received a memorandum from Division headquarters stating the need for all staff to be familiar with the appropriate sections of the Public Records Act. A copy of that memorandum is attached.

The volume of requests for access to public records has steadily increased. As the number of requests has gone up, so has the need to construct a uniform response process which will meet the intent of the Public Records Act while also ensuring that Division staff are able to perform their specific technical duties. In order to facilitate appropriate allocation of staff resources to satisfy requests for access to public information, the Division has drafted a comprehensive policy and a set of procedures for responding to requests for access to public records. The policy articulates the need for division staff to provide timely and appropriate responses to all requests for access to public information. That document is fully consistent with state law and the departments overall policy. It will undergo final review during August 1986.

RECOMMENDATION FOR RESPONSE TO PUBLIC INQUIRIES

"...the department should establish uniform procedures for responding to public inquiries and for referring these inquiries to appropriate employees for response. These procedures should include a monitoring mechanism to ensure that the response to inquiries is adequate and prompt. The department should also consider centralizing the handling of public inquiries and developing a reference manual to assist its employees in responding to public inquiries or in referring these inquiries to other employees."

RESPONSE

The aforementioned draft policy on access to public records includes guidelines for employees responding to general public inquiries. The guidelines cover responses to written inquiries as well as telephone contacts. While written inquiries are tracked through a formal correspondence control system, the proposed guidelines do not provide for a monitoring mechanism for telephone inquiries.

While the Department agrees on the need to provide accurate and timely responses to all informational requests, because of the sheer volume of telephone calls received at all division locations (literally hundreds of calls per day), we question the efficacy of a formal monitoring system.

The question of centralized response to public inquiries has been considered by TSCD. The primary obstacle in the path of successful implementation of such a system is the diversity of the Division's programs. The Division employs highly specialized professionals from a range of disciplines. Many of the telephone inquiries we receive are technical in nature and require the response of one or more of these trained professionals. While some calls can easily be handled by a centralized staff person with a generalist background, many must be referred to scientists and engineers.

We also believe that it is beneficial to respond to public inquiries from each of our four geographic locations. This allows the general public living some distance from Sacramento the opportunity to contact an office closer to their home rather than incur the expense of long distance telephone costs.

We agree that the development of a brief referral guide would be useful to employees whose responsibility is to screen incoming telephone calls prior to referring them to appropriate staff for response. The task of developing the referral guide has been assigned to the Office of Public Information and Participation. The guide is targeted for completion in late September.

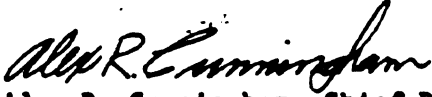
Attachment

Memorandum

To : Section Chiefs

Date : July 1, 1986

Subject: Public Records Act



From : Alex R. Cunningham, Chief Deputy Director
3-2913

Attached for your review and use is a copy of the pertinent sections of the Public Records Act. Please be sure that you and your staff are familiar with these rules and regulations so that we properly respond to requests for information.

In particular please see section 3-7350 concerning the times that records are to be open to the public. This section states that under the Public Records Act subject documents are available to the public during normal working hours. The Auditor General's staff informs me that they have discovered that some of our offices have been violating this section by setting aside only certain days or hours when public records may be examined.

While I recognize that we have many demands on our time and cannot really afford to make staff available at any time, in this case we have no choice. The public's rights under the law clearly take precedent over our allocation of resources. Therefore from now on please make these records available upon request. However this in no way restricts you from requesting, as opposed to requiring, that people exercise this right at certain, prearranged times. If you have any questions please let me know.

PUBLIC ACCESS TO DEPARTMENTAL RECORDS 3-7300

LEGAL REQUIREMENTS 3-7305

The Public Records Act (Government Code, Section 6250-6265) defines most records of the State as "public records" open to inspection and copying by the public, and then lists those types of public records that need not be open to public inspection (Government Code, Sections 6254 and 6254.7).

More specific provisions of federal or state law that exempt or prohibit disclosure supersede the requirements of the Public Records Act. Once a record is disclosed to a member of the public, it must be disclosed to all members of the public. Clarification should be requested from the Office of Legal Services on any question concerning exemption of a specific record.

The exemptions most pertinent to the Department of Health Services are as follows:

1. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy (Government Code, Section 6254(c)).
2. Records of complaints for law enforcement or licensing purposes where there is a substantial prospect of enforcement (Government Code, Section 6254(f)).
3. Records of investigations compiled for law enforcement or licensing purposes (Government Code, Section 6254(f)).
4. Records, the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law (Government Code, Section 6254(k)). (Examples: attorney-client privilege, trade secrets).

The Public Records Act requires that the Department:

1. Establish written guidelines for public access to departmental records.
2. Post a copy of the access guidelines in a conspicuous public place at all departmental locations.
3. Provide copies of its access guidelines, free of charge, to any person requesting information regarding the Department's records.
4. Respond to public records requests within ten days of the receipt of the request. In the case of trade secrets, the requestor must be notified within ten days that the Department is proceeding to obtain either the consent of the owner for release or justification for nonrelease.

DEPARTMENTAL REQUIREMENTS

3-7310

The Department's guidelines, Section 3-7350, apply to all organizational units in the Department. Each location must post, in a conspicuous place, a copy of the guidelines. Where necessary, a notice is to be included to direct the public to the location at which records may be obtained at the specific office. Each office must:

1. Identify a person to distribute guidelines on request and to direct the public to the appropriate location for records.
2. Establish procedures to comply with requests for review and copying available records.
3. Follow procedures for cashing and handling monies collected for copying records (see below and Section 3-7350).
4. Designate a location for the public to review records. This may be an area already specified for public use such as the public counter, waiting area, etc.

Unless otherwise clearly exempted from disclosure, records of the Department shall be available for inspection and copying. Before making them available, files shall be screened and edited if they may contain records which are confidential and exempt from disclosure.

A request for inspection must identify the desired record by brief description and approximate date. Requesters who have detailed information which would assist in identifying the records desired shall be required to provide such information in order to expedite the handling of the request. A request is improper if the description furnished is vague or general. If the record is properly identified and not exempt from disclosure, but will take an unusual amount of time to respond to, the requester should be notified of the delay and an appropriate date by which the requester may expect receipt of the desired records.

A request for copying must specifically identify the desired record.

A request for inspection or copying may be made at any appropriate office of the Department whether it be a headquarters office or one of the offices located throughout the State. Improper requests for records may be denied as follows:

1. Questions or dispute concerning the accessibility of a specific record in a field office or headquarters office are directed initially to the manager of the office.
2. Oral requests may be denied orally. If the requester is dissatisfied with an oral denial, the requester should be advised of his or her right to submit a request in writing to the Section Chief.
3. Written requests for inspection or copying of documents shall be decided only by Section Chiefs, or above, who may request clarification from the Office of Legal Services. Denial of written requests should be in writing and should contain the reason for denial.

DEPARTMENTAL REQUIREMENTS (Continued)

3-7310

The fee schedule will be as follows:

Regular fee (Minimum departmental fee for 10 pages or less)	\$.25 per page 2.50
Legal fee established for personal information under the Information Practices Act	.10 per page
Fee which requires legal research (except under the Information Practices Act)	1.25 per page
Statutory fee—whatever has been established by legislation, e.g., Vital Statistics Records (Birth Certificates)	8.00 per copy
Computer tapes	Actual Cost

Charges may be waived for five or less copies.

Costs of mailing will be charged to those receiving the material and will be mailed first class unless other arrangements are made by the requester. Fees for certification and authentication shall equal the actual cost of providing the service. These charges do not apply to material for public distribution (i.e., forms, pamphlets).

Copies of available records should be provided as promptly as possible upon receipt of the fee. Records which are published, i.e., voluminous regulations, manuals, etc. or available for sale need not be copied.

The Office of Legal Services and the Office of Information and Public Affairs must be notified of the receipt of any oral or written request for public records. Approval to release material is not required in most cases. If the request is in writing, a copy of the request is to be mailed to the Office of Legal Services and the Office of Information and Public Affairs.

DEPARTMENTAL REQUIREMENTS (Continued -2)

3-7310

Procedures to be followed when making copies of departmental records for the public are as follows:

1. Each unit making copies maintains a monthly log of copies made. The log will include the number of copies made, the amount charged per copy, the total amount charged, and by whom it was paid.
2. Fees are collected prior to making copies. Fees may be paid by an imprinted check or money order made payable to the Department of Health Services.
3. Fees will be receipted by the unit with receipt form HAS 1031 (Cash Receipt Booklet). Code 800-460 is to be added to the top of the form. Issuance of the Cash Receipt Booklets will be controlled by the Accounting Section, Cashiering Unit. Booklets will be available in Room 1176, 714 P Street, Sacramento.
4. The following information is to be placed on each page of each record copied: organizational source of case record, date obtained, official who released the record.
5. Collected fees will be sent to the Cashier, Accounting Section, Department of Health Services, 714 P Street, Room 1176, Sacramento, CA 95814, along with a copy of the receipt.
6. At the end of each month, units collecting fees will send to the Cashier's Office the unit log of copies made for the public.
7. The section chief is responsible for implementing this process and insuring that it is properly managed and controlled.

GUIDELINES FOR INSPECTION OF DEPARTMENTAL PUBLIC RECORDS

3-7350

All public records of the Department which are subject to disclosure under the provisions of the California Public Records Act are open to inspection by the public during the normal office hours of the office at which those records are located. Any person who wishes to inspect a public record may present the request to the receptionist of the office at which the public record is located. A particular record, or if not known, the particular type of class of records, may be requested. An area in which public records may be examined is to be provided by the office.

Under no circumstances may a public record be removed from the office. The requester must identify the requested record by specific brief description and approximate date. The requester may obtain a copy of a specific identifiable public record which is subject to disclosure. The Department is unable to provide copies of large or voluminous numbers of records. The requester may reproduce a public record by his/her own means, subject to the limitations that no record is removed from the office, and that the record is not damaged by this reproduction equipment.

Computerized records follow individual access and releasing procedures established for the division to which they belong.

A copy of paper/microfiche records may be obtained on payment as described in Section 3-7310.

The Department may temporarily deny or restrict inspection of public records under any of the following circumstances:

1. The records are at the particular time required by staff of the Department or other state officials in performing their duties.
2. The Department has reason to fear defacement or other injury to the records and supervision of inspection is at that particular time not possible.
3. Other members of the public are waiting to inspect those records.
4. An individual is monopolizing certain records to the detriment of other members of the public who wish to inspect those records.
5. An unusual amount of time will be required to locate the records.

CONFIDENTIALITY OF PATIENT INFORMATION

3-7400

Access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in the State, but a governmental agency may deny inspection of public records if their disclosure would constitute an unwarranted invasion of personal privacy. (California Public Records Act, Government Code, Sections 6250, et seq.)

There are also other state and federal laws that specifically prohibit the disclosure of information gathered on individuals while administering its programs, such as the Federal Social Security Act, the Federal Privacy Act, the California Welfare and Institutions Code, Civil Code, Health and Safety Code, and related rules and regulations.

In situations of doubt, the Office of Legal Services should be consulted.

OTHER REQUIREMENTS APPLYING TO DEPARTMENTAL RECORDS

3-7500

FEDERAL PRIVACY ACT OF 1974

3-7510

The Federal Privacy Act of 1974 (PL 93-579) became effective on September 27, 1975. The Act's purpose is to safeguard individual privacy by regulating the collection, maintenance, use, and dissemination of personal information by federal agencies. The Act also mandates that each federal agency promulgate rules implementing provisions of the Act (Section 3(f)).

A departmental program which provides individual patient or client information for a federal agency, contracts with a federal agency for operation of a record system, or uses such information provided by a federal agency should obtain a legal opinion from the Office of Legal Services in regard to the application of the Act to its specific operation.

GOVERNOR'S EXECUTIVE ORDER B-22-76 AND INFORMATION PRACTICES ACT OF 1977

3-7520

Executive Order B-22-76, effective January 1, 1977, defines the rights of citizens to take action on information collected about them. Signed into law is the Information Practices Act of 1977, effective July 1, 1978, which further extends individual protection. Departmental units maintaining any records or tapes on individuals must verify that they are in compliance with these mandates. Affected units should contact the Administrative Services Unit of the Administrative and Business Services Section, the departmental coordinating unit for these requirements, for complete information on application of the mandates to the specific unit.

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