# EXECUTIVE SUMMARY

## CHAPTER I: INTRODUCTION.

Since 1981, when both the Federal and California Superfund programs first began, little has been done nationwide or in California to clean up toxic dump sites. During the first two years the U.S. Environmental Protection Agency spent only $13 million on actual cleanup efforts. During the same period the California Department of Health Services (DHS) was unable to spend 65% of the funds appropriated by the Legislature for cleanup contracts.

In nearly three years only two sites have been cleaned up and removed from the State Superfund list. Even assuming California can triple its current rate of cleanup, it will take 46 years to clean up the 93 sites now on California's Superfund list. If the list grows to 200 sites, as anticipated by DHS, the Superfund program will have to be extended to the year 2084.

### Purpose of this Report

In the Fall of 1983, the Commission undertook the first major examination of the State's program to clean up toxic dump sites. The objectives of this study were to:

- evaluate the program and make recommendations which will accelerate the identification and cleanup of the State's toxic sites;
- improve the protection of the residents who live near these sites; and,
- determine how California can prevent the creation of "new" toxic waste Superfund sites.

## The State Superfund Program

Created in September of 1981, the State Superfund is a $100 million, ten year program to clean up toxic dumps, support emergency response, and compensate people for "hardship" losses caused by exposure to toxic substances. The State Superfund is supported entirely by taxes on those industries which generate hazardous wastes. Despite claims by industry representatives that the State Superfund was unnecessarily large, it quickly became clear that the Fund was inadequate to pay for the cost of cleaning up even the top 50 sites in the State. The extent of the underestimation, however, is just now becoming clear.

In 1984, the State ranked 93 sites on the Superfund List. In testimony before the Commission, representatives of DHS stated their estimate that the Superfund List would grow to as many as 200 sites in the next few years. These estimates of the number of sites have a profound effect on the additional funding and staffing levels required by the Superfund program and can influence its course for years to come.

## Scope of the Problem

In 1980, as the EPA adopted its first set of hazardous waste regulations, the EPA Administrator made the prophetic statement:

> Let me predict now that the process we are starting will turn up information and situations which will shock our Nation. We will find waste sites which are unknown. We will document leaching of chemicals into (groundwater supplies) that we assumed were safe. We will gather hard data on a problem whose dimensions we now can only guess.

These predictions have been born out. The "hard data" collected by the EPA reveals:

- there are as many as 50,000 toxic waste disposal sites across the country;

- in 1981 over 90% of all hazardous wastes were still being disposed of improperly and unsafely;

- it will cost at least $44 billion just to clean up the most dangerous sites in the country;

- over 4 million people in California alone have had their drinking water contaminated with toxic chemicals; and,

- over 80% of all general commercial chemicals (paints, plastics, solvents, etc.) which make up hazardous wastes have never been tested for their health effects.

The Nation's shock over these discoveries has made the control of toxic substances one of the public's top three concerns, along with crime and education. In a recent California Poll, 60% indicated that they are extremely concerned about toxic wastes.

It is with this backdrop of intense concern over toxic wastes that the Commission undertook a systematic examination of the State's program of toxic dump cleanup -- the State "Superfund" program.

## Scope and Methodology

During the course of this investigation, the Commission held three public hearings throughout the State, inspected fifteen dump sites, and conducted extensive background research on the State and Federal Superfund programs. The entire investigation required over six months to complete. It involved Commission staff, the Toxics Assessment Group (a research and consulting group specializing in toxic substances), and Michael Gersick of Gratten/Gersick/Karp who investigated legal obstacles to the cleanup of Superfund sites for Chapter VII. The entire project was directed

and supervised by a special subcommittee of the Commission.

**CHAPTER II: HAZARDOUS WASTE: A CRITICAL DANGER TO OUR CITIZENS.**

On November 30, 1983, the Commission learned first hand of the personal suffering and harm caused by the improper disposal of toxic wastes. In some of the most moving testimony the Commission has received in its 22 year history, residents of communities near toxic dumps spoke of the fear and frustration that toxic wastes have brought to their lives. Linnea Samanc, a resident near the Del Amo Boulevard dump site in Los Angeles, told the Commission at its first hearing:

> Our children suffer from headaches and stomach aches. I have three children and all of them suffer from headaches. I massage them to go to sleep at night because their legs and arms hurt... (we've experienced) hearing loss among adults and children, seizures, birth defects such as spinal bifida, cleft palate, and boys who have urinary tract defects that require surgery.

The Commission learned that the experiences of Linnea Samanc, and others from whom the Commission heard testimony, are supported by a growing body of scientific evidence. A recent study by Harvard University has linked the consumption of contaminated drinking water with the increased incidence of childhood leukemia, birth defects and other childhood diseases in a community that drew its drinking water from two wells just downstream from a large chemical manufacturing complex. In California, a study of the McColl toxic dump site in Fullerton concluded that there was a statistically significant link between 14 symptoms, including headaches, nausea and dizziness, and exposure to toxic chemicals in that dump.

Chemical Contamination of Drinking Water: Expanding the Risks of Human Exposure

California and the Federal government have spent millions of dollars developing new sources of water, constructing aqueducts and canals, and pumping water from one end of the State to the other. Yet today, Californians still draw about 50% of their drinking water from underground supplies (a very high percentage in relation to other states). Evidence is growing that precious groundwater resources are being contaminated by past and present hazardous waste disposal methods, coupled with the heavy use of pesticides in agricultural sections of the State. Toxic chemicals have been detected in more than 2,200 drinking water wells around the State. Today it is estimated that up to 4 million Californians are drinking water containing toxic chemicals.

Toxic chemicals escaping from a site can extend far beyond the immediate boundaries of the site, into the drinking water and the lives of people who believed they were safe from the misfortunes of those who live immediately adjacent to the site. The risk of this occurring is increased by the fact that critical steps necessary to protect groundwater drinking supplies have not been taken.

**CHAPTER III: CALIFORNIA HAS NOT ASSESSED THE MAGNITUDE OF ITS HAZARDOUS WASTE PROBLEM.**

Findings

1. The Department of Health Services Cannot Accurately Predict the Cleanup Costs for Toxic Dump Sites. To date, DHS has had little experience in estimating cleanup costs for toxic

dump sites. Of the total funds spent on cleanup contracts, over 75 percent has gone for work at only two sites out of the 93 on the current list. Furthermore, the level of toxic contamination and the physical characteristics of the 93 Superfund sites are not sufficiently understood to predict cleanup costs.

2. DHS is Underestimating the Number of Sites Which Will Require Cleanup Under the State Superfund. DHS has yet to complete an inventory of sites which contain hazardous waste and will require cleanup. Although 3,000 toxic waste sites have been identified for further inspection, in no county has a survey of abandoned sites been completed; 28 counties have not even been scheduled for surveys. Furthermore, DHS has excluded categories of toxic disposal sites which may ultimately require cleanup under the Superfund program. Finally, DHS has been unable to adequately evaluate the thousands of potential dump sites listed by its own Abandoned Site Project.

3. DHS Has No Orderly Program to Assess Sites. The Department cannot fully account for its actions at the 105 sites referred for Superfund ranking by its Abandoned Site Project. Additionally, DHS has not tracked actions taken on over 1,300 sites referred by the ASP for enforcement action. Finally, the Department's plans are inadequate for testing the 3,500 sites identified by the Abandoned Site Project as requiring further testing.

4. The Ranking System of the State Superfund Attempts to be Minutely Exact and Results in Constant and Misleading Changes in Cleanup Priorities. The Department has adopted in regulation a system of ranking sites on the Superfund List that attempts to be

rigorously definitive, but in fact is only misleading. Each site is ranked against all others, producing a scale from 1 to 93. This attempt at precision, examplified by the determination of whether a site is 43 or 44 on the list of 93 sites, exceeds any honest reflection of what is actually known about these sites. The result of this ranking scale is that 64 of the 65 sites which have been ranked for more than one year have changed rank from year to year. This produces confusion for residents near the Superfund site and produces a constantly moving target for policy decisions regarding cleanup expenditures.

**CHAPTER IV: THE DEPARTMENT HAS FAILED TO DEVELOP POLICIES TO PROTECT PUBLIC HEALTH AND GUIDE CLEANUP ACTIVITIES.**

Findings

1. The Department Places Inadequate Emphasis on Site Characterization. Site characterization is the most important task facing the Superfund staff in the protection of public health. Cleanup plans, site security, evacuation, legal actions against responsible parties, and plans for disseminating information are dependent upon a site characterization. However, DHS lacks clear policies on how to conduct a complete site characterization study.

2. The Department Has No Clear Policy on How and When to Notify Residents Living Near Toxic Sites About Possible Health Hazards. The best protection against illnesses caused by toxic substances is to avoid exposure whenever possible. The Department relies upon its Office of Public Information and Participation to develop and disseminate information. However, the poor performance by this office prevents the Department from achieving this goal.

3. The Department Has No Policy to Guide Decisions on What Security Measures to Take at Various Superfund Sites. Alternatives available to DHS include posting warning signs, erecting fences, posting guards, and installing high security fencing and alarm systems. Although improvements have been made, problems have continued.

4. The Department Has No Policy to Guide Decisions on When to Evacuate Residents Either Before or During Cleanup. Nor does DHS have a policy on developing emergency evacuation plans in the event of a large, unexpected release of toxic gasses. Release of toxic gasses during evacuation has occurred at some sites.

5. DHS Has Not Developed Policies and Guidelines for Determining the Extent to Which a Site Should be Cleaned Up. DHS prefers to use flexible site-specific standards. However, the failure to develop consistent public health standards may result in individual site cleanup standards which are inappropriately influenced by the interests of responsible parties.

6. DHS Has Failed to Develop Policies and Procedures to Force Action by Responsible Parties and Trigger Superfund Expenditures. DHS has not set any deadlines for timely action which would trigger Superfund expenditures. The absence of clear and fast deadlines in direct correspondence with responsible parties creates a class of sites where inactive responsible parties effectively delay access to Superfund monies.

**CHAPTER V: ORGANIZATIONAL AND MANAGEMENT PROBLEMS PRESENT A MAJOR OBSTACLE TO THE IDENTIFICATION AND CLEANUP OF CONTAMINATED SITES.**

Findings

1. The Superfund Program Receives Inadequate Attention and Support as a Result of its Present Placement Within DHS. From its inception, the Superfund program has been plagued by delays and institutional problems. By the end of Fiscal Year 1983-84, when the program has been administered equally by Democratic and Republican Administrations, a total of two toxic dump sites will have been cleaned up through the State Superfund. A total of 13 sites will have received Superfund monies for cleanup activities. The limited progress that has been made during the last three years is due primarily to lack of resources and serious organizational and management problems. Although progress has been made by the program toward the cleanup of toxic dumps, the Commission found its 1981 findings on the State's Hazardous Waste Program are still fully applicable today. Those findings were that, efforts to control toxic substances...have been hindered by:

- first, the submersion of the Hazardous Waste Management Section deep within the bureaucracy of the Department of Health Services;
- second, by the preoccupation of the Department by other health and medical issues; and,
- third, by extremely sluggish and limited administrative support, particularly for personnel and contract actions.

Today, the Superfund Program (now called the Site Mitigation Unit) is still one of hundreds of Units within DHS competing for the attention of the Director and limited administrative support. The Unit continues to be grossly understaffed and hampered by

administrative problems in contracting, hiring, and purchasing.

2. There Have Been Major Delays and Inefficiencies in Hiring Staff. From 1981 to 1983, DHS Toxic Substances Control Program, including Superfund, has experienced 20 to 30 percent vacancy rates. In December 1983, the Legislative Analyst testified that "there have been major unjustified delays" in filling vacant and newly established positions.

3. DHS has Not Developed an Effective Process for Awarding and Monitoring Superfund Contracts. The Department has failed to issue contracts in a timely manner. According to an Auditor General study conducted at the request of the Commission, DHS's sluggish contracting has been due in part to problems in hiring staff, delays in securing Federal funds, and internal and external review procedures that are so cumbersome that it can take up to 200 days to process a single contract. The Department also lacks the expertise and experience needed to prepare and monitor complicated cleanup contracts.

4. The Department Has Failed to Develop Procedures to Track the Status of Contaminated Sites. According to sources within DHS, the Department is not tracking the more than 1,300 sites identified by the Abandoned Site Project and referred for enforcement action.

5. The Office of Public Information and Participation has Been Unsucessful in Providing Information and Participation Opportunities to Communities Affected by Toxic Dump Sites. The Department's public information office has done a poor job of providing information and assistance to communities affected by Superfund sites. Additionally, the Department has failed to

fulfill its statutory responsibilities to inform victims as to how they can receive compensation for injuries stemming from exposure to hazardous materials. Finally, the OPIP staff is inexperienced and lacks the expertise necessary to fulfill the program's goals.

6. There is Inadequate Coordination Among the State, Federal, and Local Agencies Involved in Cleanup Activities. The cleanup of a contaminated site requires coordination among a number of agencies. Unfortunately, California has failed to sort out the jurisdictional responsibilities of these various agencies and to develop procedures to effectively coordinate the resources that are available to clean up sites contaminated with toxic chemicals. As a result, California's cleanup program lacks: (1) an integrated strategy for the identification, assessment and cleanup of sites; (2) a clear indication of priorities; (3) a clear division of responsibility; and, (4) accountability. There is inadequate DHS coordination with the State Water Resources Control Board, as well as with local agencies.

**CHAPTER VI: CALIFORNIA HAS COMMITTED INSUFFICIENT RESOURCES TO CARRY OUT AN EFFECTIVE CLEANUP PROGRAM.**

Findings

1. The State and Federal Superfunds are Seriously Underfunded. The current State Superfund provides for only $100 million. While the State may additionally receive as much as $90 million to $970 million from the Federal Superfund and responsible parties, the cost of cleaning up the State's 200 Superfund sites ranges from $820 million to $2.6 billion. The currently proposed program to provide $300 million through

general obligation bonds may be inadequate, and the $526 million in interest payments may place too large a burden on the general taxpayer for cleanups.

2. DHS and the State Water Resources Control Boards Have Failed to Allocate Adequate Staff to the Cleanup of Contaminated Sites. Despite the complexity of dump site cleanups, the DHS has only 17 authorized positions in the Site Mitigation Unit located in Sacramento. Of these positions, only six staff have responsibility for site characterization, design, and cleanup work at specific sites.

3. The Attorney General's Office is indequately staffed to undertake the civil prosecutions which DHS intends to initiate as part of the Superfund program. The State has yet to successfully sue a responsible party for reimbursement of State Superfund monies spent in cleanup. The Attorney General's office has been asked to initiate only four legal actions against responsible parties by DHS. Yet, if the State expects to recover current Superfund expenditures, much less the $184 million in cleanup expenditures the Administration recently committed to collect from responsible parties, then the Attorney General will require additional staff and resources to undertake successful legal actions.

**CHAPTER VII: EXISTING LEGAL AND REGULATORY TOOLS HAVE NOT BEEN EFFECTIVE TO PAY FOR CLEANUP OF SUPERFUND SITES.**

Findings

1. California Statutes Establishing the Standard and Scope of Liability for Site Cleanup are Inconsistent with Federal Law and Weak by Comparison. California law fails to define who is a

"liable person." The effect of the absent definition is to create a gap in the government's case against each potentially responsible party and may serve as a disincentive for the State to litigate. Additionally, the State's failure to adopt Federal standards of strict, joint and several liability delays site cleanups.

2. If Adjudication of Responsible Parties is Going to be an Effective Tool for Compelling Reimbursement on a Timely Basis, Then the State Must Change the Judicial Procedure. The Commission believes that the requirement that damages be apportioned among responsible parties places considerations of equity among tortfeasors before considerations of public health, water quality, and environmental protection. Consequently, the State needs to develop alternative methods for assessing damages to ensure that the process is expedited to the extent possible.

**CHAPTER VIII: CALIFORNIA'S EXISTING REGULATORY PROGRAM IS NOT ADEQUATE FOR PREVENTING THE CREATION OF NEW SUPERFUND SITES.**

Findings

1. There are Major Deficiencies in State and Federal Regulations. Deficiencies in existing and proposed State and Federal regulations are so significant that they call into question whether the State's hazardous waste management program is intended to prevent the creation of future Superfund sites. The criticisms of the State's hazardous waste program lead the Commission to conclude that California's existing regulatory program is not adequate to prevent the creation of new Superfund sites.

2. Most Hazardous Waste Facilities Have Not Received Permits. The Resource Conservation and Recovery Act requires that every person owning or operating a hazardous waste facility must obtain a permit. Seven years after passage of this law, over 90 percent of all hazardous waste facilities continue to operate under "interim status." DHS has made major improvements in issuing final permits to facilities which store and treat hazardous wastes in tanks. However, little progress has been made in permitting land disposal facilities - the facilities which represent the greatest risk of contamination and that show up most frequently on the Superfund list.

3. Many Hazardous Waste Facilities Have Not Been Routinely Inspected. Based on data collected in July 1983, California had inspected only 18 percent of all the State's hazardous waste facilities and had conducted inspections at less than half of the major disposal facilities. The reason for this appears to be confusion over which agency is responsible for conducting inspections.

4. There is Widespread Noncompliance with Hazardous Waste Regulations. The EPA, the U.S. General Accounting Office, the Assembly Office of Research, and the California Auditor General have all reported extensive noncompliance with requirements for groundwater monitoring. Yet early detection of contamination is necessary to avoid millions of dollars in the cost of site cleanups.

5. Most Hazardous Wastes Continue to be Dumped in Surface Waters, Sewers, and Land Disposal Facilities. In the absence of direct disincentives, such as regulatory restrictions of land

disposal and strong enforcement of the industrial pretreatment standards, disposal of untreated or minimally treated waste to sewers, surface waters and surface impoundments (toxic ponds) will always represent least-cost waste management options. When all costs, the immediate cost to the generator as well as the cost of eventual cleanup, are considered, waste reduction and treatment techniques become economically feasible. The present regulatory system focuses on minimizing the front-end costs. Yet the Congressional Office of Technology Assessment estimates that cleaning up a contaminated site and compensating victims costs from 10 to 100 times as much as taking the proper initial steps to prevent contamination.

6. The Use of Improved Waste Management Technologies Will Help Prevent the Creation of New Superfund Sites. Advanced waste management technologies are already in use in other countries such as Denmark, the Netherlands, and Japan. As a result, land disposal has been significantly curtailed in these countries. Although full use of these technologies may increase costs from $20 to $30 million annually, these costs would be distributed among several thousand California businesses with gross annual sales of over $30 billion.

7. California's Hazardous Waste Program Does Not Place Adequate Emphasis on the Reduction of Hazardous Wastes and On the use of Alternative Waste Management Technologies. California adopted a policy in 1981 to reduce dependence on land disposal facilities and to encourage the construction of alternative waste management facilities. However, DHS has not yet developed an aggressive program to increase the development and use of

technologies which can safely reduce, recycle, treat, or destroy hazardous wastes. An analysis of the budget shows that the Alternative Technology Program was reduced by six positions and $266,000 in 1983-84 and has been slated for further reductions in 1984-85.

8. The costs of cleaning up contaminated hazardous waste sites vastly exceed the costs of preventing the contamination. Recent examinations of cleaning up toxic waste dumps that have leaked into the environment, and compensating victims, show the costs to be **10 to 100 times greater** than the cost of properly handling the wastes. Proper disposal of the wastes at Love Canal would have cost an estimated $2 million, but the cleanup program is expected to exceed $100 million.

**CHAPTER IX: RECOMMENDATIONS**

The dangers posed by toxic wastes to human health and water supplies demand far greater attention than they are receiving from State agencies. Despite intense public and media attention, the State's efforts to clean up toxic dumps have been modest in comparison to the dimensions of the toxic waste threat.

While the Department's past efforts to correct deficiencies and willingness to make further improvements is to be commended, the Commission believes that there is a serious danger in placing too much emphasis on "fine-tuning" specific elements of the Superfund program. Many of the problems documented by the Commission are related to major organizational conflicts, the failure of the State to commit needed resources, and serious management deficiencies linked to the placement of the program

within the Department of Health Services. Many of these problems are well beyond the control of the Department and can only be corrected through major legislative reforms and reorganization.

**Recommendation #1: The Governor and the Legislature should create an Office of Superfund Management within the Governor's Office to:**

- **Immediately accelerate the cleanup of hazardous waste sites; and,**
- **Centralize authority, establish accountability, and improve coordination while major and permanent reorganization proposals are considered.**

Attempts by the Department to reorganize internally and to streamline certain support activities have been largely unsuccessful. Efforts to improve coordination with other State agencies, particularly the State Water Resources Control Board, have also failed to resolve serious problems that have led to confusion and inaction by both agencies.

The Commission strongly urges that a special Superfund Management Office be created within the Governor's Office to plan, organize and supervise the work of the State agencies which are responsible for cleaning up toxic dump sites. This office would be responsible for overseeing the following activities:

1. Developing a multi-year plan to guide the identification, assessment and cleanup of toxic dump sites, and to assess the financial and staff resources needed to carry out an effective cleanup program.

2. Supervising the completion of the Abandoned Site Project.

3. Coordinating the evaluation of all sites identified as potential hazardous waste sites.

4. Revising the ranking system for hazardous waste sites and setting priorities for the allocation of resources.

5. Issuing a complete list of all the sites in California which are contaminated with toxic substances and will require cleanup.

6. Establishing strategies for using available Superfund monies as efficiently as possible. One strategy should be to use funds for early and complete characterization of sites, and then developing tough schedules for responsible party negotiations and cleanup work. This would ensure that Superfund monies can be immediately spent by the State if responsible parties fail to take action.

7. Coordinating the approval of cleanup plans by the Department of Health Services, the State Water Resources Control Board, and the Air Resources Board.

8. Designating lead agencies for all cleanup projects, and coordinating the activities of State agencies involved in the cleanup.

9. Coordinating the development of policies to guide cleanup decisions and to protect public health.

10. Coordinating the preparation of a strategy to strengthen the laws and regulations needed to prevent the creation of new Superfund sites.

The Commission recommends that the Superfund Management Office be established for a two-year period as an interim strategy to improve the effectiveness of the program. During this time serious consideration should be given to major and permanent reorganization of the State's toxics programs.

**Recommendation #2: California should immediately double the resources available to clean up toxic dumps.**

The Commission concluded that both State and Federal Superfunds are inadequate to clean up sites which are known to be contaminated with hazardous wastes. Although it is impossible at this time to estimate the total amount of the revenue shortfall, the Commission believes that California may need at least $400 to $500 million in State revenues during the next 10 to 20 years.

Furthermore, the Commission has concluded that many organizational and management changes must occur if additional funds are to be used effectively. During the past two years the Department has been unable to spend the entire $10 million appropriated by the Legislature and has encountered enormous difficulties in awarding and monitoring a small number of cleanup contracts.

Therefore, the Commission recommends:

A. The Legislature should pass urgency legislation increasing the amount of the Superfund Program from $10 million to $20 million per year.

B. The Legislature and the Administration should determine the percentage of cleanup cost activities that should be borne by the general taxpayer prior to developing any long-term financing program for Superfund.

C. The Legislature should memorialize Congress to:

- Increase the amount of the Federal Superfund to a level not less than $1.8 billion per year for each of the next five years;

- Require EPA to award a portion of the Superfund revenues to states under a block grant formula that considers the number of sites in each state.

D. The Administration should double the authorized staff positions for site characterization and cleanup within the Department of Health Services, the State Water Resources Control Board, and each of the Regional Water Boards. Furthermore, the Administration should approve additional resources for the Attorney General's Office to pursue civil and criminal actions to clean up these sites.

These recommendations represent a constructive interim step towards resolving the resource shortfall within the Superfund program. They are designed to help the Legislature and Administration plan and carefully manage the growth of the Superfund program while avoiding many of the problems that have plagued the program in the past.

**Recommendation #3: The Director of the Department of Health Services should create a special management task force to resolve serious management and administrative problems.**

Many of the problems discussed in this report are the result of bureaucratic delays, inefficiencies, inadequate legal and administrative support, and the failure to develop effective procedures. The Commission believes that many of these problems can be resolved by creating a special task force or management team within the Department. These efforts are not dependent on any major organizational reforms and should begin immediately.

The Commission recommends that the Department immediately create a Superfund Management Task Force to consider and follow up on the following recommendations:

1. Assess staffing needs (clerical, professional, technical) to determine the number and type of staff that will be needed to carry out an expanded program.

2. Develop guidelines on when and how to conduct site characterizations.

3. Prepare a comprehensive staff training and development program for new and existing staff.

4. Assemble a highly specialized team to prepare and monitor Superfund contracts.

5. Re-evaluate the job requirements and the qualifications of key management staff to ensure that managers have been appropriately placed.

6. Create an Advisory Committee which includes victims of toxic chemical exposure to assist the Office of Public Information and Participation in developing a more effective program.

7. Develop specific policies to guide decisions on when to construct fences, when and how to notify residents of potential health hazards, when to evacuate residents, and supply alternative sources of water.

8. Develop a computerized data management system to track the status of all abandoned sites.

9. Prepare regulations revising the ranking system for Superfund sites. The new regulations should create a system which is less susceptible to constant change and should categorize sites as follows:

Priority One: Sites which represent an immediate threat to human health or have a high potential to contaminate groundwater.

Priority Two: Sites which represent a less immediate threat to human health or to the environment.

Priority Three: Sites which will require cleanup, but present a limited threat to human health or the environment.

10. Develop a special recruitment program to attract highly qualified candidates into the State's Superfund Program.

**Recommendation #4: The Legislature should amend certain State statutes and consider new legal procedures to accelerate the collection of funds from responsible parties.**

First, the Commission recommends that the Legislature amend State statutes defining responsible parties so that the standards and scope provisions of strict liability conform to Federal law.

Second, the Commission recommends the State initiate either of two options to expedite the judicial process. The first option would be for the Legislature to amend current statutes regarding joint and several liability so that they would conform with Federal law. The second option would be for the Legislature to consider establishing a bifurcated litigation procedure for Superfund cases. The initial phase of the trial would be exclusively concerned with determining, as a matter of fact, the amount of damages being sought and the "responsible" parties. In the second phase of the bifurcated trial, within a matter of days prescribed by statute, the trial judge would determine, for the purpose of assessing damages, the amount of the total cleanup costs to be borne by each of the liable parties. Within another statutorily prescribed period, the amount of damages assessed to each party would be due. Subsequently, a full trial would be

held to readjudicate apportionment with greater particularity, or establish the liability of a previously unidentified party, or determine the proper contribution of the Superfund to the cleanup costs where there are insolvent liable parties.

**Recommendation #5: The Legislature should require that all existing hazardous waste disposal facilities meet the requirements and standards for new facilities no later than 1988.**

Both State and Federal regulations for hazardous waste facilities differentiate between requirements for new and existing facilities. Existing facilities are "grandfathered" into the regulatory system and have been allowed to operate under "interim status." Although these facilities will eventually be granted full permits, they will be allowed to operate under conditions that the regulatory agencies have determined are inadequate for new facilities.

The Legislature should close this regulatory loophole by requiring that new and existing facilities be treated equally. Although there will be significant costs associated with bringing these facilities into compliance with new regulations, the Commission believes that these costs are reasonable when compared to the enormous costs of cleaning up a leaking hazardous waste site.

**Recommendation #6: The Legislature should require the Department of Health Services to develop regulations prohibiting the land disposal of all hazardous wastes which present serious potential risks to human health and the environment.**

In December 1982 the Department of Health Services adopted regulations restricting certain highly toxic wastes from land disposal. These wastes were to be phased out of land disposal

facilities between 1983 and 1985 as alternative waste treatment capacity became available.

Since the Department has made no effort to extend the existing land disposal restrictions, the Legislature should require the Department to prohibit from land disposal all wastes which present serious potential risks to human health and the environment.

**CONCLUDING NOTE TO THE EXECUTIVE SUMMARY**

This Executive Summary serves to provide the reader with an abridged version of the full report of findings and recommendations. However, to fully understand the nature of the Commission's conclusions and recommendations, we encourage you to read the full text, particularly Chapter IX where our recommendations are presented in detail.