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RELEASED

REPORT BY THE

Comptroller General

OF THE UNITED STATES

Hazardous Waste Facilities With Interim Status May Be Endangering Public Health And The Environment

The Environmental Protection Agency (EPA) has little assurance that hazardous waste facilities with interim status -- the period between application and issuance of the final permit -- meet the minimum national requirements for acceptable management as specified in the interim status regulations. In addition, all facilities are not included in the interim status process.

Interim status regulations are largely administrative and do not specify the kinds of technical, design, construction, and operating requirements needed for health and environmental protection.

EPA and State inspection and enforcement efforts have covered only a small percentage of the facilities with interim status. EPA has emphasized the issuance of warning letters, notices of violations, and compliance orders which, due to the nature of the regulations, have concentrated on administrative violations.

Most EPA and State officials believe that additional staffing is necessary to implement a more comprehensive interim status program for hazardous waste facilities.



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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-204873

The Honorable James J. Florio
Chairman, Subcommittee on Commerce
Transportation, and Tourism
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

As requested in your letter dated March 19, 1981, and subsequent discussions with your office, this report discusses problems in the implementation of the interim status hazardous waste management program. We examined interim status treatment, storage, and disposal facilities' compliance with the Environmental Protection Agency's regulations; the adequacy of requirements under the regulations to protect public health and the environment; and monitoring and enforcement activities under the program. The review focused on activities performed by the Environmental Protection Agency and six selected States. At your request, we did not obtain agency comments.

Also as arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of the report until 30 days from the date of its issuance. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

A handwritten signature in cursive script that reads "Milton J. Fowler".

Acting Comptroller General
of the United States

D I G E S T

The Resource Conservation and Recovery Act requires that any person or company owning or operating a facility where hazardous waste is treated, stored, or disposed of must obtain a permit. The act also prescribes procedures for those facilities that were in operation on November 19, 1980, to continue operating under "interim status" until a final hazardous waste permit is issued. Interim status involves a two-step process. The first is the submission to the Environmental Protection Agency (EPA) of a Notification of Hazardous Waste Activity form by all handlers of hazardous waste by August 18, 1980. The second is the submission of Part A of the permit application by November 19, 1980. (See pp. 1 and 2.)

When the act was enacted on October 21, 1976, EPA was directed to develop regulations for the permitting and management of hazardous waste facilities within 18 months. (See p. 2.)

After much delay, EPA finally issued interim status regulations on May 19, 1980, outlining minimum national requirements. (See p. 2.)

The Chairman, Subcommittee on Commerce, Transportation, and Tourism, House Committee on Energy and Commerce, asked GAO to determine

--the extent to which facilities with interim status meet the EPA requirements,

--if the EPA interim status requirements are sufficient to protect public health and welfare, and

--how effectively and thoroughly EPA is monitoring and enforcing the interim status requirements. (See p. 4.)

GAO found that (1) not all facilities which store, treat, or dispose of hazardous waste were included by the interim status process or

that facilities with interim status meet the regulations and requirements, (2) the regulations that were issued were largely administrative and nontechnical and were not intended to provide complete health and environmental protection, and (3) monitoring and enforcement of the regulations has been limited in that only a limited number of inspections have been performed by EPA and the States, the inspections resulted primarily in the issuance of compliance orders for administrative violations, and the number and amounts of fines levied have been small. (See pp. 10, 11, 18, 22, and 26.)

FACILITIES NOT INCLUDED AND LIMITS TO THE PROGRAM

Under the act, applicants for interim status routinely obtained it if they (1) provided EPA by August 18, 1980, with notice of their existence, (2) were in operation as of November 19, 1980, and (3) submitted forms 1 and 3, Part A, of the permit application. EPA acknowledges, however, that facilities with interim status must meet its regulations and requirements. (See pp. 1 and 3.)

However, GAO found that:

- Generators which handle small amounts of hazardous waste were not required by EPA to obtain interim status. (See p. 10.)
- EPA performed little followup to determine if all existing hazardous waste facilities, required by regulations, submitted applications. (See p. 10.)
- The interim status application process was not designed to determine compliance with the regulations and requirements, and the applications sought little information which could have been useful to EPA in determining problem areas and inspection needs. (See p. 8.)

GAO's review of data provided on 230 permit applications (all 29 applications selected from one region plus 201 applications randomly selected in three other regions) showed that even a non-technical analysis of the limited information provided raised significant questions about facility compliance with the interim status regulations. GAO visits to 38 facilities judgmentally selected further revealed that 29 of

the facilities had violations of the interim status regulations and/or significant operating problems. (See pp. 9 and 10.)

EPA inspections confirmed these problems. In EPA's region VI, EPA inspectors found one or more violations at 52 of 55 facilities inspected. (See pp. 13 and 14.)

EPA headquarters, regional office, and State hazardous waste management officials agree that problems exist with respect to the existing interim status process. They further recognize that interim status facilities do not meet the regulations and requirements but state that sufficient staffing has not been available to implement a better program. (See p. 16.)

INTERIM STATUS REGULATIONS DO
NOT PROVIDE PROTECTION OF
PUBLIC HEALTH AND THE ENVIRONMENT

The interim status regulations are largely administrative and do not require the kinds of technical, design, construction, and operating standards needed for health and environment protection. They were designed as an initial effort to improve hazardous waste management practices and do not require necessary substantive operating requirements, such as liners in landfills and surface impoundments or leachate--polluted liquid--detection, collection, and removal systems to prevent ground water contamination.

EPA and State officials stated that the kinds of health and environmental assurances desired could only be provided through the implementation of the technical and operating requirements that are to be included in the final general permitting regulations. (See p. 18.)

EPA estimates that, based on current funding and staffing levels, it may take up to 8 years to develop all the regulations and issue final hazardous waste facility permits. (See p. 2.)

LIMITED MONITORING AND
ENFORCEMENT EFFORTS

EPA monitoring and enforcement efforts for facilities with interim status have been limited. Only about 12 percent of the 7,056 facilities with interim status in the four regions GAO reviewed

had been inspected by EPA and/or the States, and these inspections had been primarily of administrative provisions of the interim status regulations. (See pp. 22 and 26.)

EPA guidance provides a wide latitude on the number of inspections to be performed and the nature of the inspections. (See p. 22.)

GAO's analysis of 127 inspection reports in the four regions showed that 122 of the facilities inspected did not comply with the interim status regulations. (See p. 24.)

As of May 28, 1981, only 123 compliance orders had been issued nationwide for violations of the interim status regulations with penalties assessed against only 37 of the facilities with interim status. (See p. 26.)

Recent changes in EPA's enforcement policy may result in the use of even less compliance orders for noncompliance with the interim status regulations in the future. (See p. 27.)

EPA cites a lack of resources for the limited number of inspections performed and explains that the emphasis on administrative provisions is consistent with the nature of the interim status regulations. (See p. 24.)

RECOMMENDATIONS TO THE ADMINISTRATOR, EPA

For the interim status program to operate effectively as an integral part of the hazardous waste program, the Administrator, EPA, should direct that:

- Additional followup effort be made to identify that all facilities subject to the act that treat, store, or dispose of hazardous waste are included in the interim status control program. (See p. 17.)
- An additional review be made of the interim status application data provided by the facilities and, where necessary, clarifying information be obtained to identify facilities warranting additional investigative effort. (See p. 17.)
- A determination be made as to the additional staffing needs, if any, for the interim status

- program and options be developed as to how such staff can be obtained. (See p. 17.)
- Increased emphasis be placed on enforcement efforts including technical violations at interim status facilities. (See p. 28.)
 - The level of inspection needed for full implementation of EPA's enforcement role and the necessary staff assistance to carry out the enforcement role be determined. (See p. 27.)

GAO recognizes that in the current period of budget savings, it would be difficult to obtain the additional staff and funds for interim status program needs. GAO believes, however, that because of the seriousness of the hazardous waste problems facing the country, EPA should (1) encourage the States to apply more existing program resources to the interim status program area and (2) consider shifting available EPA staff to the interim status program from other environmental program areas that may have been cut back. If program staffing and resource needs cannot be obtained in that way, GAO recommends that EPA establish the additional needs of the program and provide such information to the appropriate congressional committees for their consideration.

At the request of the chairman, GAO did not obtain written comments on this report. (See p. 6.)



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ABBREVIATIONS

CFR	Code of Federal Regulations
CSC	Computer Sciences Corporation
EPA	Environmental Protection Agency
GAO	General Accounting Office
RCRA	Resource Conservation and Recovery Act of 1976

CHAPTER 1

INTRODUCTION

In 1970 the Congress identified hazardous waste storage and disposal as a problem of grave national concern. When not properly handled and controlled, such wastes can have acute or chronic adverse effects on human health or the environment. Hazardous wastes are generated in the production of many common materials--metals, paints, plastics, pesticides, clothing, fertilizers, and medicines.

EPA estimated that in 1980 U.S. industry would generate about 57 million metric tons (wet) of hazardous waste, 60 percent of which would come from the chemical industry and allied products. Included are toxic organic chemicals, acids, caustics, flammables, and explosives.

Hazardous waste disposal on the land is the Nation's predominant disposal method. Disposal facilities are often located in areas considered to have little or no value for other uses and without sufficient concern for the type of soil on which they are located or their proximity to water resources, particularly ground water. About 60 percent of the estimated total volume of hazardous waste is liquid or sludge. When hazardous waste comes in contact with water, it forms a highly polluted liquid called leachate. Leachate can contaminate ground water and pose a substantial health hazard where the water is used as a public drinking water supply.

THE RESOURCE CONSERVATION AND RECOVERY ACT

The Congress enacted the Resource Conservation and Recovery Act (RCRA) in 1976 to, among other things, regulate the management of hazardous waste and improve waste disposal practices. Subtitle C of the act requires that the Environmental Protection Agency (EPA) develop a hazardous waste regulatory system to protect public health and the environment. The act envisions that waste will be tracked and controlled from the time it is generated until its disposal. When fully implemented, this program is to provide "cradle-to-grave" regulation of hazardous waste.

RCRA requires that any person or company owning or operating a facility where hazardous waste is treated, stored, or disposed of must obtain a permit. The act also prescribes a procedure for those facilities in operation on November 19, 1980, to continue operating under "interim status" until a final hazardous waste permit is issued.

To obtain interim status, RCRA required the owners/operators of existing facilities that treat, store, or dispose of hazardous waste to complete a two-step process. The first step was the submission to EPA of a Notification of Hazardous

Waste Activity form by all handlers of hazardous waste by August 18, 1980. The second step was the submission of Part A of the permit application by November 19, 1980.

Interim status enables a facility to continue operating until it receives a final hazardous waste permit. The final permits are to be issued after performance standards are developed by EPA for the various treatment, storage, and disposal activities dealing with hazardous wastes.

Under RCRA the EPA Administrator or States with EPA-approved hazardous waste programs may issue compliance orders and assess penalties of up to \$25,000 for each day of facility noncompliance with interim status regulations. The Administrator and/or the States may initiate civil actions for appropriate relief for violations of these regulations, including temporary or permanent injunctions. Where the noncompliance with the interim status regulations knowingly endangers the public health, criminal actions may also be initiated.

DEVELOPMENT OF HAZARDOUS WASTE REGULATIONS

When RCRA was enacted on October 21, 1976, EPA was directed to develop regulations for the permitting and management of hazardous waste facilities within 18 months of the date of enactment. RCRA further provides that the regulations were to become effective 6 months after the date of promulgation.

EPA experienced problems in developing the required regulations and did not meet the 18-month period provided by RCRA. Therefore, EPA decided to issue the regulations in three phases:

- Phase I regulations, which were issued on May 19, 1980, set forth minimum standards for the management of hazardous waste facilities operating under "interim status."
- Phase II regulations will prescribe performance or operating standards for hazardous waste facilities.
- Phase III regulations will resolve any remaining technical issues dealing with hazardous waste facility operations.

EPA estimates that, based on current funding and staffing levels, it may take up to 8 years to develop all the regulations and issue final hazardous waste facility permits.

As noted above, EPA issued regulations applicable to hazardous waste facilities operating under "interim status" on May 19, 1980. These regulations, which are referred to as the "interim status regulations," are in Title 40 of the Code of

Federal Regulations (CFR), Part 265. According to EPA, facilities with interim status must meet the interim status regulations.

The interim status regulations include requirements for preparing for and preventing hazards; contingency planning and emergency procedures; a manifest system for tracking waste; recordkeeping and reporting; ground water monitoring; facility closure and postclosure care; financial requirements; the use and management of containers; and the design and operation of tanks, surface impoundments, waste piles, land treatment facilities, landfills, incinerators, and injection wells. In addition, the regulations include general requirements for waste analysis, security at facilities, inspection of facilities, and personnel training.

STATE PROGRAM ACTIVITY

RCRA provides that after authorization by EPA, the States are to administer their own hazardous waste programs. The act also allows the States to obtain interim authorization from EPA for 2 years to administer their own hazardous waste programs while working toward final program authorization. As of July 12, 1981, the 24 States listed below had been granted interim authorization.

States With Interim Authorization

Alabama	Maine	Oregon
Arkansas	Maryland	Pennsylvania
California	Massachusetts	Rhode Island
Delaware	Mississippi	South Carolina
Georgia	Montana	Tennessee
Iowa	North Carolina	Texas
Kentucky	North Dakota	Utah
Louisiana	Oklahoma	Vermont

For States which have not been granted interim authorization, EPA is responsible for the hazardous waste program. Under cooperative arrangements with these States, however, the States may be carrying out some aspects of the hazardous waste program for EPA. For example, a State may be inspecting facilities rather than EPA. Regardless of the extent of State involvement, however, EPA retains overall responsibility for the hazardous waste program.

ENFORCEMENT AND MONITORING EFFORTS

In fiscal year 1980, EPA obligated approximately \$3.1 million for the hazardous waste enforcement program, including the interim status program. These funds were used for (1) developing an overall enforcement strategy and inspection manual for verification of compliance with the interim status regulations and standards,

(2) supporting general enforcement activities, (3) assisting in the development of an automatic data processing system to meet recordkeeping and other anticipated program needs, and (4) developing a RCRA penalty policy for criminal, civil, and administrative proceedings.

Program activities in 1980 focused on efforts to formulate a comprehensive strategy for implementing a hazardous waste enforcement program. In 1980, EPA completed a second draft of a "Case Proceedings Manual" for use in enforcement actions and a "General Inspections Manual" to be used to inspect permitted facilities and facilities for compliance with the interim status standards. In 1981, EPA initiated compliance monitoring and enforcement programs for States not granted interim or final authorization and initiated enforcement activities in States operating programs under cooperative arrangements.

OBJECTIVES, SCOPE, AND METHODOLOGY

By letter dated March 19, 1981 (see app. I), the Chairman of the Subcommittee on Commerce, Transportation, and Tourism, House Committee on Energy and Commerce, asked us to review aspects of the RCRA subtitle C hazardous waste program implementation. Specifically, he asked us to determine

- the extent to which the facilities that had been granted interim status do, in fact, meet the EPA interim status requirements;
- whether the requirements developed by EPA are sufficient to protect the public health and welfare; and
- how effectively and thoroughly EPA is monitoring and enforcing these requirements.

To accomplish the request objectives, our review focused on (1) the process by which hazardous waste facilities obtain interim status, (2) the adequacy of the standards prescribed by the interim status regulations, and (3) compliance monitoring and enforcement requirements and activities.

The review was performed at EPA headquarters in Washington, D.C.; at EPA regional offices in region II (New York); region III (Philadelphia); region V (Chicago); and region VI (Dallas); and at State environmental agencies in six States--Illinois, Michigan, Oklahoma, Pennsylvania, New Jersey, and Texas.

The EPA regions and States selected were chosen to obtain diverse geographical coverage in our work and were the areas of the country with the largest volumes of hazardous waste. The EPA regional office areas encompassed in our work account for about 62 percent of the estimated hazardous waste volumes produced annually in the United States. The States we visited and in which we conducted our review work produce about 33 percent of

the estimated total annual volume of hazardous waste. Five of the six States covered by our review are among the top 10 States producing the largest volume of hazardous waste. Three of the six States included in our review--Oklahoma, Pennsylvania, and Texas--were authorized to administer their own interim status programs, and three States--Illinois, Michigan, and New Jersey--had programs being administered under cooperative arrangements with EPA.

To determine if facilities with interim status meet the interim status regulations, we reviewed 230 interim status applications submitted by the 7,056 facilities with interim status in the four regions included in our work. We also visited 40 hazardous waste treatment, storage, and disposal facilities in conjunction with EPA or State inspectors to observe the condition of the facilities. Of the 230 interim status applications reviewed, 201 were randomly selected. The remaining 29 applications reviewed (all in region VI) were not randomly selected; they were the only applications available in the region during the period of our work. We selected the 40 facilities visited based on suggestions provided by EPA and State hazardous waste officials and inspectors. In selecting individual facilities to visit we used criteria such as facility size, type of waste disposal method, location, and the availability of State or EPA inspectors to accompany us. The time frame for our work limited the number of visits to 40 facilities. (See app. II.)

Two of the facilities visited had not obtained interim status--one had been late in submitting its notification and application forms and the other was an inactive facility. We were accompanied by either an EPA or State inspector or representative--frequently both--with whom we held discussions regarding our assessments of the facilities visited. For 21 of the 40 facilities visited, inspections were being performed during our visit.

We discussed with EPA headquarters and regional officials and with State program and enforcement officials the statutory and regulatory requirements regarding hazardous waste facilities with interim status, the adequacy of the regulations in protecting public health and the environment during the interim status period, and compliance monitoring and enforcement requirements and activities. We also discussed the adequacy of EPA and State personnel levels to implement the interim status program.

We reviewed files and background and guidance documents obtained at EPA headquarters and regional offices and at State environmental agencies regarding implementation of the interim status program. At EPA headquarters we obtained and reviewed policy and guidance manuals, documents, and compliance orders.

In the EPA regions we obtained and examined statistics on implementation of the program and copies of permit applications, inspection reports, and enforcement actions.

We reviewed 127 EPA and State facility inspection reports in the regions visited to determine the nature of the inspections and the type of violations identified. We also reviewed the documentation available on 123 compliance orders issued as of May 28, 1981, and held discussions with EPA and State officials responsible for compliance monitoring and enforcement activities at interim status facilities to assess the extent of violations at the facilities.

As requested by the chairman we did not obtain written comments on this report, however, we did discuss the matters in the report with agency officials and, where appropriate, included their views.

CHAPTER 2

ALL HAZARDOUS WASTE FACILITIES ARE NOT REGULATED AND REGULATED FACILITIES MAY NOT MEET REQUIREMENTS

RCRA provides that facilities which store, treat, or dispose of hazardous waste may obtain interim status, and EPA requires that facilities with interim status must meet the interim status regulations and requirements. However, compliance with interim status regulations is not a condition for a facility to obtain interim status.

EPA has little assurance that all facilities which store, treat or dispose of hazardous waste were "captured" by the interim status process or that those facilities with interim status meet the interim status regulations and requirements because:

- Generators which handle small amounts of hazardous waste were not required by EPA to obtain interim status.
- EPA has performed little followup to determine if all existing hazardous waste facilities, required by regulations submitted applications.
- The interim status application process was not designed to determine compliance with the regulations and requirements.

Information noted in the interim status applications reviewed raises questions about interim status facility compliance with the regulations and requirements. Also, our visits to 38 interim status facilities and review of EPA inspection reports showed that most interim status facilities did not meet the regulations and requirements.

EPA headquarters, regional office, and State hazardous waste management officials agree that problems exist with the existing interim status process. They recognize that interim status facilities do not meet the regulations and requirements and stated that staffing and funding levels will determine what can be done to implement the program.

LITTLE ASSURANCE THAT THE INTERIM STATUS PROCESS WAS EFFECTIVE

Compliance with the interim status regulations and requirements is not a condition for a facility to obtain interim status. However, facilities with such status must meet the interim status requirements and regulations. The interim status application process was not designed to determine compliance with the regulations, and therefore EPA has little assurance that facilities with interim status meet the regulation requirements, also it has not captured all existing hazardous waste facilities.

Notification and application process
contained minimal information requirements

Under RCRA, EPA does not grant interim status. Applicants for interim status routinely obtain interim status if they (1) provided EPA by August 18, 1980, with notice of their existence, (2) were in operation as of November 19, 1980, and (3) submitted forms 1 and 3, Part A, of the permit application.

The interim status process as implemented by EPA consisted of a review of notifications received and a review of applications. In these efforts EPA was assisted by a contractor, the Computer Sciences Corporation (CSC). CSC, in conjunction with EPA, is to provide overall support for the RCRA program by

- receiving and processing the hazardous waste facility notifications;
- receiving and processing forms 1 and 3, Part A, of the hazardous waste permit application; and
- designing and implementing both physical and computer files and maintaining and providing access to the notification and application information.

Facilities that generated, transported, treated, stored, or disposed of hazardous waste were required to notify EPA of their existence by August 18, 1980. CSC reviewed these notifications for the facility name, location, type of hazardous waste activity, official's signature and title, and date the certification was signed. In addition, based on the notifications, CSC attempted to identify facilities that had unnecessarily submitted notifications and were in fact not required to do so under the act or EPA regulations.

CSC's application review of forms 1 and 3, Part A, was divided into three steps. Under the terms of the contract, none of these steps was intended to be a technical review of the application to determine if the facility met the interim status standards. CSC, in its step one review, answered the following questions:

- Did the facility treat, store, or dispose of hazardous waste?
- Were forms 1 and 3, Part A, of the application received and postmarked on or before November 19, 1980, and were both forms signed?
- Was the date of operation on or before November 19, 1980?
- Did the facility submit a notification on or before August 18, 1980?

No technical assessments were made of the application information provided. Steps two and three of the application review process as performed by CSC were used only to further identify deficiencies in the applications. Step two was used to identify basic items, including the facility name and owner, location, mailing address, operator information, process information, waste information and signature. Step three identified other specific items such as maps, photographs, drawings, and latitude and longitude. CSC was also to update any amendments to the permit notifications and applications.

If the application answered all of the above questions positively, EPA sent the facility an interim status acknowledgment letter. The letter acknowledged receipt of the application and stated that the facility appeared to qualify for interim status, although the letter also cautioned that further review may alter the interim status.

Applications indicate problems

Our review of permit applications showed that the information provided was not sufficiently complete to enable a determination of the extent to which facilities with interim status met the regulation requirements. We believe, however, that even a nontechnical review of the data in relation to the interim status regulations and the general standards that have been issued to date raises questions about facility operations warranting further inquiry. For example, in reviewing Part A applications data we found that various applications had indications of operating defects that were apparent simply by reviewing facility photographs and drawings. Information in the applications raised questions concerning matters such as the poor condition of hazardous waste containers at the various sites, lack of cover to prevent dispersal or emissions from the site, lack of leachate control measures, and ineffective systems for structural diversion of run-on or runoff of rain water. In addition, applications contain no information on waste analysis plans, security systems, site inspections, personnel training, emergency plans, and recordkeeping.

Our review of 230 permit applications in the four EPA regions visited disclosed that the EPA Part A applications could not be relied upon to determine whether facilities are complying with the interim status regulations, since the applications were designed to provide only basic data regarding facility operations. We believe the application data requested could have been made more explicit as to the type of information asked for regarding facility operations. This added information could have provided EPA with a more complete data base on which to have implemented a more comprehensive interim status program. Additional information also could have significantly helped EPA in identifying potential problem facilities warranting special attention and inspection.

In EPA region V we reviewed data on 101 Part A applications. In some cases information showing possible noncompliance was available, whereas in others little information was provided regarding compliance with the interim status regulations. We reviewed a total of 100 Part A applications in EPA regions II and III. Again we concluded that there simply was not sufficient information on the applications to indicate compliance with the interim status regulations. In EPA region VI, after assessing 29 Part A applications we concluded that based on the applications it was not possible to make any assessments in that region regarding facility compliance with the interim regulations.

Regional hazardous waste management officials in the four regions, including the Chief, Waste Management Branch, in region V, stated that evaluation of the Part A data for technical defects at hazardous waste facilities was inappropriate because the data, including statistics, maps, drawings, and photographs, was not complete and could be misleading.

In commenting on the interim status process, EPA headquarters hazardous waste management officials recognized that the interim status process as implemented was largely an administrative process. They stated that to have developed a more comprehensive interim status program would have required additional staff and resources.

All facilities handling hazardous waste
not subject to interim status process

At the outset of the interim status process EPA excluded certain facilities from making the necessary application. Generators that produced less than 1,000 kilograms a month--2,200 pounds--of hazardous waste were generally exempt from the hazardous waste regulations including interim status regulations. EPA estimates that about 90 percent of the generators in the United States qualify under this exemption.

In the May 19, 1980, Federal Register promulgating the interim status regulations, EPA explained that based on volume, the exempted generators do not constitute the great mass of the hazardous waste problem. EPA also pointed out that to bring small generators within the present regulation system would far outstrip their limited resources to implement the program. Under this volume exemption, an estimated 1.2 billion pounds of hazardous waste may be disposed of either on-site or off-site in interim status facilities or facilities permitted by a State to handle municipal solid waste. EPA has stated that at a later date it plans to include most of these facilities in the regulatory process.

All facilities subject to interim
status may not have been identified

EPA has no assurance that all facilities subject to the interim status process were identified and included in the interim

status program. As implemented, the process may not have captured all facilities subject to the program requirements.

Initially EPA developed a listing of about 400,000 industrial firms that could be handling hazardous waste and thereby required to notify EPA of their activities. Letters and notification forms were mailed to these firms seeking information on their operations and asking that they respond if, in their judgment, they qualified for regulation under the act. Only approximately 67,000 firms responded, but EPA made little effort to determine why more of the firms did not respond.

Of the approximately 67,000 facilities that responded, over 44,000 were identified by EPA as either generators or transporters of hazardous waste or otherwise not subject to the interim status requirements. Of the facilities that identified themselves as treatment, storage, and disposal facilities, 23,000 were sent interim status permit applications and only 14,659 of the 23,000 facilities responded by submitting the applications. Again, however EPA made little effort to determine why the remaining 8,334 facilities did not respond.

EPA headquarters officials, including the Deputy Director of the State Programs and Resource Recovery Division, told us that EPA plans to send some followup letters to the facilities that did not respond to the notification or the application process, but because of staffing limits, it plans to concentrate on consolidating the information provided by the facilities that responded to the program. The Deputy Director could not provide us with information on when EPA will begin to follow up on non-notifiers or nonapplicants.

As applications were reviewed and deficiencies corrected, the application data was to be keypunched and entered into a data base. As of September 1981, the data base on the interim status facilities that responded was incomplete and EPA therefore has no firm estimate of the volume of hazardous waste handled by interim status facilities within the various regions. Hazardous waste management officials in Oklahoma and Texas stated that they believed that most hazardous wastes within their States were handled by the interim status facilities. Until the information from the applications is in the data base, however, neither the States nor EPA are in a position to verify such statements. The Deputy Director, State Programs and Resource Recovery Division of EPA, agreed.

COMPLIANCE WITH INTERIM STATUS REGULATIONS IS QUESTIONABLE

EPA requires that facilities with interim status meet the interim status regulations and requirements. Our visits to facilities with interim status, and EPA inspection reports all raise serious doubts as to whether such facilities do in fact

meet the regulations and requirements. EPA agrees that facility compliance with the regulations and requirements is questionable but cites a lack of resources to undertake additional efforts.

Facility visits showed problems

While our visits accompanied by EPA and State inspectors to 38 facilities with interim status in the six States included in our review did not reveal grave or imminent health and safety dangers, we did observe instances of noncompliance with the interim status regulations and/or other problems for 29 of the facilities visited. Examples of our observations are presented below.

Chromium lead sludge disposal

One facility we visited was annually depositing an estimated 4,560 tons of chromium lead sludge directly into a 40-acre body of water. Although this area bordered on a lake connected to Lake Michigan and had been classified by a Federal agency as a "wetland" area requiring special preservation, the facility had not obtained the required Clean Water Act operating permit. In addition, although the facility was classified as a hazardous waste landfill it had not obtained the necessary State permit and therefore was in violation of State hazardous waste management regulations. The State inspector who accompanied us agreed with our observations. The facility had interim status under RCRA.

Phenol disposal

At another facility, wastewater with a concentration of 117 to 135 parts per million (ppm) of a hazardous substance called phenol was being discharged directly onto the land. EPA water quality criteria prescribe a maximum tolerable level for human consumption of 3.5 ppm. The State inspector acknowledged that the practice looked improper, yet the company's Part A application for interim status and the information filed at the EPA regional office provided no indication that this type of hazardous waste activity was taking place. This facility also had interim status under RCRA.

Polychlorinated biphenyl (PCB) burning and disposal problems

At another location visited the facility was involved in incinerating PCB's, a highly toxic hazardous waste subject to various special regulations. Personnel operating the facility, as well as the inspector accompanying us, could provide no assurances of the adequacy of the burning temperatures--according to EPA, from 1,200 degrees to 1,600 degrees centigrade were required. The cinder residues remaining were also being disposed

of directly on the ground beside the incinerator with no special physical controls. This facility also had interim status.

Chemical surface impoundment problems

A chemical surface impoundment facility did not have a protective cover or enough freeboard around the facility to prevent wind and water erosion. We observed run-off from the facility which extended past the firm's property lines. Although the EPA inspector agreed with our observations regarding the facility, the facility had interim status under RCRA.

Inspections confirm that problems exist

EPA and State inspections of facilities with interim status confirmed that interim status facilities are not meeting the interim status regulations. In region VI, EPA's Surveillance and Analysis Division, Compliance Section, inspected 66 facilities--including 11 facilities which should not have been included as part of the interim status process but which had filed Part A applications between November 20, 1980, and April 9, 1981. We reviewed the records of these inspections to identify facilities with deficiencies in meeting the interim status standards. One or more deficiencies were found by the EPA inspectors in 52 of the 55 facilities having interim status. Deficiencies generally noted were primarily problems with required paperwork, but also included were 29 facilities that did not have a waste analysis plan; 26 that did not have personnel training records; and 29 that did not have a contingency plan for emergencies. During facility inspections, EPA inspectors also found six facilities where container deficiencies existed and nine with surface impoundment problems.

The following table provides a summary of the administrative and operational problems noted by EPA region VI inspectors for the 55 interim status facilities inspected. It should be noted that most of the deficiencies cited were of an administrative nature as contrasted with technical or engineering requirements.

Summary of Deficiencies Noted
in Inspections by EPA Region VI of 55
Treatment, Storage, and Disposal Facilities

<u>Administrative deficiencies</u>	<u>Facilities inspected (note a)</u>	<u>Facilities with deficiencies</u>
No waste analysis plan	54	29
No written inspection schedule	54	21
No inspection log	54	21
Uncorrected malfunctions listed in log	39	4
No personnel training records	55	26
Equipment deficiencies	54	11
Local authorities not familiar with facility	54	17
Local hospitals not familiar with properties of waste	54	23
No contingency plan for emergencies	55	29
Manifest deficiencies	33	5
 <u>Facility technical or engineering defects (note b)</u>		
Incinerator operating deficiencies	9	2
Waste pile design deficiencies	6	5
Inadequate container storage	18	10
Surface impoundment problems	26	10
Land treatment facilities	3	1
Tank leakage	26	9
Other treatment facilities problems	15	3
Landfill design problems	8	3

a/Where inspection categories were not applicable at a particular facility, they were not considered in the inspection.

b/About half the technical and engineering defects found deal with administrative matters.

In region V, EPA Waste Management Branch officials including the Branch Chief told us that most of the facility inspections completed by regional staff--about 200 in the region--showed varying degrees of noncompliance with interim status regulations. Illinois' Land Field Operations Manager estimated that about 50 percent of the approximately 150 inspections completed by the State inspectors showed interim status regulation violations. The same State official further estimated that at least 10 percent of the violations had potentially harmful environmental effects. He stated that public complaints citing various problems had also been received on approximately 10 of the facilities with interim status.

EPA and States cite resource constraints

EPA regional and State agency hazardous waste management officials in five of the six States visited told us they needed additional staff and resources to implement the RCRA interim status program. Hazardous waste officials in two States, however, told us that they will have sufficient staffing available in fiscal year 1982. EPA headquarters and regional hazardous waste officials indicated that a lack of staff will delay the full permitting of hazardous waste facilities.

The interim status period was originally envisioned by EPA to be substantially less than the currently projected 8 years. The Chief of the Waste Management Branch in one region estimated that under the current staffing plans, final permitting may not take place for as much as 10 years.

Hazardous waste management program officials in EPA's region II told us that the current staff-year levels of 39.3 in fiscal year 1981 were not sufficient to implement the interim status program, and that the projected fiscal year 1982 staffing level increases of approximately 5 staff-years will do little to increase the program's effectiveness. A similar position was taken by EPA's region III concerning its staffing levels for RCRA implementation of 41.5 staff-years in fiscal year 1981 and approximately 46.5 in fiscal year 1982.

In EPA's region V the perspective taken by hazardous waste regional officials on insufficient staffing was that because of staffing limits a longer time frame would be required for final permitting and program implementation. In EPA's region VI, where the fiscal year 1981 regional staffing level was set at about 30 staff-years, the RCRA Permits Section Chief stated that 2 or 3 additional staff-years would allow for a faster review of inspection reports and development of enforcement actions. In addition, he stated 3 to 5 staff-years would be needed when final permitting begins.

The staffing situation at the State levels varied. In the New Jersey Department of Environmental Protection the staff will more than double from 48 to 103 full-time positions for hazardous

waste management in fiscal year 1981. In Pennsylvania's Department of Environmental Resources, the hazardous waste management staff will increase from 120 to 160 full-time positions in fiscal year 1982. The Chief of the New Jersey Hazardous Waste Bureau and the Chief of the Pennsylvania Division of Hazardous Waste Management believe their fiscal year 1982 staff levels will be adequate to administer the hazardous waste management programs.

Oklahoma and Texas officials stated they require additional employees to administer their interim status hazardous waste programs. According to Texas officials the Texas Department of Water Resources needs 23 additional hazardous waste program staff and the Texas Department of Health needs 21 additional staff. The Director of Oklahoma's Industrial Waste Division said six additional employees were estimated to be needed beginning in July 1981 at the Oklahoma Department of Health. Michigan hazardous waste management officials estimated they needed a total of 24 to 34 additional persons in fiscal year 1982.

EPA headquarters officials including the Acting Director, Office of Solid Waste, agreed that with additional staff the States could do more to implement the interim status program. According to the Acting Director, the interim status program must compete for staff with other hazardous waste program needs. He said that with more staff available a better interim status program would result.

CONCLUSIONS

EPA does not grant interim status to hazardous waste facilities. Interim status is routinely and as a matter of general course obtained under RCRA if a hazardous waste facility (1) provided EPA by August 18, 1980, with notice of its existence, (2) was in operation as of November 19, 1980, and (3) properly filled out forms 1 and 3 (Part A) of the permit application. EPA requires that facilities with interim status meet the interim status regulations. However, EPA has little assurance that facilities with interim status meet the interim status regulations and requirements. Furthermore, EPA has little assurance that all facilities which store, treat, or dispose of hazardous waste were included in this program, because it made little effort to follow up on non-notifiers and nonapplicants.

Our review of permit application data showed that the applications did not request information for determining facility compliance with the interim status regulations. We believe that more information should have been requested on the applications to provide EPA with a broader data base for the development of the program, and additional assistance in identifying potentially problem facilities.

Our visits to facilities and EPA and State inspection reports confirm that interim status facilities generally do

not meet the regulations and requirements. EPA confirms that problems exist with the interim status process but that staffing was not available to implement a more controlled program.

RECOMMENDATIONS TO THE ADMINISTRATOR, EPA

For the interim status program to operate effectively as an integral part of the hazardous waste program, the Administrator, EPA, should direct that

- additional followup be made to identify that all facilities subject to the act that treat, store, or dispose of hazardous waste are included in the interim status control program;
- additional review be made of the interim status application data provided by the facilities and, where necessary, clarifying information be obtained to identify facilities warranting additional investigative effort; and
- a determination be made as to the additional staffing needs, if any, for the interim status program and that options be developed as to how such staff can be obtained.

We recognize that in the current period of budget savings, it would be difficult to obtain the additional staff and funds for interim status program needs. We believe, however, that because of the seriousness of the hazardous waste problems facing the country, EPA should (1) encourage the States to apply more existing program resources to the interim status program area and (2) consider shifting available EPA staff to the interim status program from other environmental program areas that may have been cut back. If program staffing and resource needs cannot be thereby obtained, we recommend that EPA establish the additional needs of the program and provide such information to the appropriate congressional committees for their consideration.

CHAPTER 3

INTERIM STATUS REGULATIONS DO NOT PROVIDE FOR PROTECTION OF PUBLIC HEALTH AND THE ENVIRONMENT

EPA never intended the interim status regulations to completely protect the public's health and the environment. The interim status regulations are largely administrative and non-technical in nature and cannot reasonably be expected to provide the general public with such an assurance. The regulations do not require the kinds of technical, design, construction, and operating standards needed for health and environmental protection. Although EPA and State officials expressed satisfaction with the scope and nature of the regulations, they recognize that only with the implementation of the general standards for fully permitted facilities could the public receive the type of health and environmental assurances desired.

INTERIM STATUS REGULATIONS ARE LIMITED IN NATURE

The interim status regulations issued by EPA on May 19, 1980, set forth the minimum standards for the management of hazardous waste facilities operating under interim status. These standards were designed as an initial effort to improve hazardous waste management practices.

The interim status regulations are largely administrative in nature and include requirements for recordkeeping, waste analysis, site security, inspections, emergencies, and personnel training. For example, facilities must maintain operating records and reports that include the type and quantity of wastes received, the results of inspection, and information on emergencies. Facility operators are also responsible for certain aspects of the manifest system, namely the signing and dating of the manifest forms for wastes received or transported off site, and for the reporting to EPA of discrepancies between the data on the manifest and the wastes actually received. Only the most minimal technical requirements for landfills, surface impoundments, and land treatment facilities are specified in the interim status regulations.

In determining which regulations to apply to facilities with interim status, EPA considered (1) whether the standards could be met in a straightforward manner without a need for substantial interpretation or negotiation, (2) if compliance required substantial capital expenditure, and (3) whether compliance could be achieved within the 6-month period between the date the regulations were promulgated and the date they became effective.

In developing the interim status regulations, EPA did not believe, as explained in the preamble to the regulations, that facilities with interim status should be expected to meet detailed operating design and construction requirements. EPA explained that specific operating and design requirements should not be

applicable because such specific requirements may be inappropriate for some facilities and that requirements may be changed when a full permit is finally issued. EPA also stated that decisions regarding technical standards and individual compliance schedules should be made only in the permit issuance process where there is opportunity for public participation and for greater interaction between the States, EPA and the permit applicant.

Various EPA and State hazardous waste officials expressed satisfaction with the interim status regulations, despite their limited nature. Nevertheless, these officials also recognized the need for additional technical and operating regulations.

ADDITIONAL STANDARDS NEEDED TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT

As discussed above, the interim status regulations do not contain specific requirements necessary to protect public health and the environment. EPA and State hazardous waste officials told us that to insure that the public health and the environment are fully protected, more detailed technical and operating requirements are needed. In addition they said that requirements for liner systems; leachate detection, collection and removal systems; and air quality monitoring are also needed. EPA plans to include such requirements in the final permitting regulations.

Operating and design requirements

EPA hazardous waste management officials provided the following examples of the types of specific design and operating requirements needed for hazardous waste facilities to insure adequate protection of the public health and the environment.

Liner systems

Liner systems are defined as a continuous layer of material--clay or other natural substance or man-made material such as plastic--beneath or on the sides of a landfill, landfill cell, or surface impoundment, which restricts the downward or lateral escape of hazardous wastes, hazardous constituents, or leachate into the soil or ground water. Although the use of liner systems is to be specified for landfills and surface impoundments in regulations for new facilities, no such comparable standards exist--except special requirements for liquid wastes in landfills--in the interim status regulations for existing facilities. In conjunction with a leachate detection, collection, and removal system, the liner system is the first basic requirement for containing hazardous wastes in a landfill.

The Acting Disposal Branch Chief in EPA's Land Disposal Division informed us that in his opinion liners were not required in the interim status regulations because such a requirement would require retrofitting. He said that retrofitting landfills and surface impoundments was too costly and dangerous and as a result were not specified in the interim status regulations.

Leachate detection, collection and removal systems

In conjunction with the liner systems, the leachate detection, collection, and removal system forms a necessary component of the containment system to prevent the contamination of land, surface water, and ground water by leachate emanating from a hazardous waste landfill or impoundment. As with the liner system, the Acting Disposal Branch Chief in EPA's Land Disposal Division informed us that because of retrofitting costs and technical problems EPA decided not to require the leachate detection, collection and removal systems as part of the interim status requirements.

Air quality monitoring

The interim status regulations do not require facilities to monitor air quality. An official in EPA's Land Disposal Division told us that such monitoring at a facility is essential for health and safety reasons, because of the wide range of highly toxic pollutants that may be emanating from hazardous waste facilities.

Operating and design requirements to be included in final permitting regulations

EPA recognizes the need and plans to include specific technical operating and design requirements in the final permitting regulations. For example, EPA has proposed final permitting regulations regarding incinerators and storage surface impoundments that included regulations for liners and leachate detection and control systems. Other operating and design requirements, beyond those specified in the interim status regulations--such as for chemical, physical, and biological treatment facilities; thermal treatment facilities; and underground injection control facilities--have also been acknowledged as being needed. They have not been issued, however, because the regulatory approach and various technical issues have not been resolved. Additionally, EPA originally estimated that land disposal requirements would be issued in October 1982. Because EPA has not been able to resolve all the technical objections to the proposed regulations, the issuance of these regulations has been delayed until October 1983. Similarly, because of technical objections to the proposed incineration and storage surface impoundment requirements, EPA has now withdrawn those requirements and their issue date has been indefinitely suspended. Prior to the issuance of full technical operating and design requirements for the final permitting of hazardous

waste facilities, EPA must satisfactorily resolve all technical objections, a process that may require many years.

CONCLUSIONS

EPA interim status regulations do not require complete substantive operating requirements, such as liners in landfills and surface impoundments to prevent ground water contamination. The interim status regulations are largely administrative and cannot reasonably be expected to provide the general public with necessary health and environmental assurances. EPA and State officials expressed the view that such assurances could only be provided through the implementation of the technical and operating requirements that are to be included in the general permitting regulations.

CHAPTER 4

LIMITED MONITORING AND ENFORCEMENT AT

HAZARDOUS WASTE FACILITIES WITH INTERIM STATUS

EPA monitoring and enforcement efforts for facilities with interim status have been limited. Only about 12 percent of the interim status facilities in the regions we reviewed have been inspected by EPA and/or the States, and these inspections have been primarily of the administrative provisions of the interim status regulations. EPA guidance provides for a wide latitude on the number of inspections to be performed and the nature of the inspections. EPA cites a lack of resources for the limited number of inspections performed and explains that the emphasis on administrative provisions is consistent with the largely administrative nature of the interim status regulations.

EPA and State inspection efforts have resulted primarily in the issuance of notices of violations and compliance orders. The number and amount of fines levied for noncompliance with the interim status regulations have been small. Recent changes in EPA's enforcement policy may result in the issuance of even fewer orders for noncompliance with the interim status regulations in the future.

LIMITED NUMBER AND NATURE OF INSPECTIONS

Monitoring of hazardous waste facilities through inspections represents an important aspect of the enforcement system. Inspections are used to detect and document health and environmental violations and provide the basis for enforcement actions which ensure the adequacy of facility operations. EPA and the States have inspected only a small number of the hazardous waste facilities with interim status. Also, the inspections performed have emphasized primarily compliance with administrative requirements. EPA guidance provides for a wide latitude on the number and nature of inspections of interim status facilities.

Number of inspections

As of June 5, 1981, EPA had acknowledged 8,170 hazardous waste facilities as having interim status. The four EPA regions where we conducted our work had 7,056 interim status facilities but only about 830, or 12 percent, of these facilities had been inspected. In EPA's region III as few as 3 percent of the facilities had been inspected. The table below summarizes the total inspections performed by both EPA and State agency inspectors in the regions where we conducted our work.

Hazardous Waste Facilities

<u>EPA region</u>	<u>Facilities with interim status</u>	<u>Number inspected</u>	<u>Percent inspected</u>
II	1,431	159	11
III	1,290	38	3
V	3,209	557	17
VI	<u>1,126</u>	<u>a/ 76</u>	<u>7</u>
Total	<u>7,056</u>	<u>830</u>	12

a/The number of inspections does not include State conducted inspections for Arkansas, Louisiana and New Mexico which were not available at the regional office.

The highest number of inspections performed were in EPA's region V, where no States are authorized to administer the hazardous waste program. The higher rate of inspections in this region is consistent with EPA's policy to provide added support to States that do not have program authorization.

The percent of EPA and State inspections performed in the six States covered by our review were consistent with the regions as a whole. Only 12 percent of the interim status facilities had been inspected by EPA and/or the States, as shown in the following table.

Hazardous Waste Facilities

<u>State</u>	<u>Number with interim status</u>	<u>Number inspected</u>	<u>Percent inspected</u>
Illinois	794	191	24
Michigan	562	91	16
New Jersey	643	86	13
Oklahoma	103	21	20
Pennsylvania	719	12	2
Texas	<u>683</u>	<u>35</u>	<u>5</u>
Total	<u>3,504</u>	<u>436</u>	12

In a June 1980 RCRA State interim authorization guidance manual issued to the regions, EPA stated that State enforcement programs would be considered adequate if they provide inspections of major hazardous waste facilities at least once a year and nonmajor hazardous waste facilities every 2 years. EPA further provided that about 10 percent of the hazardous waste facilities are expected to be classified as major facilities, but provided no definition as to what constitutes a major facility. According to two EPA officials in the State Program Branch, Office of Solid Waste, the manual is the only

EPA guidance that had been issued on hazardous waste facility classification. The manual states only that factors to be considered may include facility size, location, and amount of waste generated or handled, as well as the total number of facilities within the States. A listing of major facilities is to be developed in conjunction with EPA and the States. Two States included in our review, Oklahoma and Texas, had developed a list of their major facilities.

One State Program Manager at EPA headquarters expressed the opinion that all facilities that treat, store, and dispose of waste generated by others for a fee should be classified as major hazardous waste facilities. Furthermore, he stated that, in his opinion, any facility that disposes of hazardous waste should be classified as major.

EPA and State hazardous waste officials emphasized the lack of staff as a primary factor for the limited number of inspections of facilities with interim status. They further stated that with current levels of staffing and the number of interim status facilities yet to be inspected, it will take years to complete the inspections.

EPA's Deputy Director, State Programs and Resource Recovery Division, Office of Solid Waste, stated that although a national list of major facilities had not been compiled, EPA and the States are working toward the preparation of such a listing. He also stated that most major facilities had been inspected. As was discussed in chapter 2, that observation cannot be confirmed until all facilities handling hazardous waste and the volume of wastes handled by these facilities are included in the interim status program data base and analyzed.

Nature of inspections

EPA inspection criteria give substantial latitude in how to perform inspections at interim status hazardous waste facilities. EPA's RCRA inspections manual provides the option of performing full compliance evaluation inspections or simple sampling inspections. The scope of these inspections range from a records review to determine compliance with recordkeeping and reporting requirements, to the actual sampling and analyzing of waste samples taken at the facility.

Our analysis of 127 inspection reports in the four regions reviewed showed that 122, or 96 percent, of the facilities inspected did not comply with the interim status regulations and requirements and that both EPA and State inspectors have emphasized administrative violations, which is consistent with the interim status standards. Yet, in our visits to hazardous waste facilities accompanied by State inspectors, we noted operating violations such as leaking drums, the storage of incompatible wastes, and drums stored without leachate collection systems--all of which are considered by EPA as serious problems. The State inspectors, however, often did not identify such items as serious

problems when they performed inspections although the items are generally covered by the interim status regulations.

The following summary of the 123 compliance orders issued nationwide as a result of facility inspections also shows that most violations cited during inspections have been for violations of the administrative provisions of the interim regulations.

Summary of Violations Covered by Compliance Orders (123) note a
Issued for Interim Status Violations Through May 28, 1981

Adminis- trative provisions violated	EPA regions										Total
	<u>I</u>	<u>II</u>	<u>III</u>	<u>IV</u>	<u>V</u>	<u>VI</u>	<u>VII</u>	<u>VIII</u>	<u>IX</u>	<u>X</u>	
Administrative facility standards	11	14	1	-	213	12	-	9	-	3	263
Preparedness and prevention	5	1	-	-	71	8	-	5	-	2	92
Lack of con- tingency plan and emergency procedures	6	4	1	-	122	3	-	6	-	1	143
Manifest system, recordkeeping, and reporting	<u>1</u>	-	<u>1</u>	-	<u>31</u>	<u>4</u>	-	-	-	<u>2</u>	<u>39</u>
Total	<u>23</u>	<u>19</u>	<u>3</u>	-	<u>437</u>	<u>27</u>	-	<u>20</u>	-	<u>8</u>	<u>537</u>
Operating provisions violated											
Use and manage- ment of con- tainers (note b)	4	-	-	-	33	1	-	1	-	2	41
Tanks (note b)	-	-	-	-	2	-	-	-	-	-	2
Surface impound- ments	-	-	-	-	7	7	-	-	-	-	14
Waste piles (note b)	-	-	-	-	5	1	-	-	-	2	8
Landfills (note b)	-	-	-	-	1	-	-	-	-	-	1
Thermal treatment (note b)	-	-	-	-	1	-	-	-	-	-	1
Chemical, physi- cal, biological, treatment (note b)	-	-	-	-	2	-	-	-	-	-	2
Total	<u>4</u>	-	-	-	<u>51</u>	<u>9</u>	-	<u>1</u>	-	<u>4</u>	<u>69</u>
Total	<u>27</u>	<u>19</u>	<u>3</u>	-	<u>488</u>	<u>36</u>	-	<u>21</u>	-	<u>12</u>	<u>606</u>

a/Three compliance orders did not specify sections of the interim status standards violated and are not included in the analysis.

b/Includes violations of administrative standards dealing with (1) monitoring and inspections, (2) waste analysis, (3) surveying, and (4) recordkeeping. Also included are violations of operating standards dealing with (1) general operating requirements, (2) condition and management of containers, (3) compatibility of wastes with containers, (4) special requirements for ignitable, reactive, and incompatible wastes, (5) containment systems, and (6) protection of waste from wind dispersion.

EPA's Acting Director, Office of Solid Waste, and the Chief, Regulatory Branch, Office of Waste Programs Enforcement, said that in accordance with a May 28, 1981, directive, EPA now requires headquarters concurrence in the issuance of compliance orders and that in the future they will be issued for the more substantive violations of the interim status regulations. They also stated that EPA has recognized that in the past, inspections emphasized for the most part violations of administrative provisions of the interim status regulations. We agree. EPA inspections should emphasize the more substantive aspects of the regulations, without completely abandoning the administrative requirements.

ADDITIONAL ENFORCEMENT IS NEEDED

Few compliance orders have been issued and few fines assessed. Recent changes in EPA enforcement policy may result in the use of even fewer compliance orders.

Limited enforcement action

EPA's enforcement actions have not been extensive. EPA headquarters initially provided enforcement guidance to the regions on December 18, 1980. EPA can issue compliance orders, assess civil penalties, commence civil actions for relief, and initiate felony actions against violators who knowingly do not comply with the regulations and create a hazard which places another in imminent danger of death or bodily injury. EPA's guidance, however, instructed the regions to issue notices of violations for minor violations where voluntary compliance could be expected. In all other instances, upon determining that a violation had occurred, the initial enforcement response was to be a compliance order stipulating compliance within a specified time period, as well as the penalty for the violations.

EPA generally considers the seriousness of the violation as consisting of three factors, namely the intrinsic hazard of the waste, the likelihood of exposure, and the extent of deviation from the standards. The seriousness of a violation can be mitigated by the violator's efforts to comply, lack of control over circumstances, and voluntary efforts to rectify damage.

As of May 28, 1981, nationwide EPA has issued only 123 compliance orders, with penalties ranging from \$100 for a violation of personnel training and recordkeeping requirements to \$25,000 for a violation of surface water control requirements. Penalties totaling \$466,250 were assessed against 37 hazardous waste facilities.

According to EPA's Regulatory Branch Chief, Office of Waste Program Enforcement, for other violations EPA has relied on persuasion and cooperation of owners and operators, warning letters, and notices of violation. He further stated that only in the most severe situations does EPA contemplate more drastic actions such as fines, compliance orders, or court actions.

Changes in enforcement policy

In the future the use of compliance orders to correct violations may be even further reduced, because compliance orders will no longer be normally issued for administrative violations. In a May 28, 1981, memorandum, the EPA Deputy Assistant Administrator for Hazardous Waste Enforcement temporarily suspended the issuing of compliance orders for violations. According to the memorandum, prior headquarters concurrence will be required before the issuing of compliance orders. The memorandum stated that the purpose of this change was to ensure that enforcement efforts concentrate on only the most serious violations. On July 7, 1981, the Director of EPA's Office of Waste Programs Enforcement, provided guidance on developing compliance orders to the Regional Administrators and Enforcement Division Directors, instructing them that administrative violations will normally be addressed through a warning letter. The guidance provided in the memorandum divides hazardous waste violations into three classes.

Class I: Those that pose direct and immediate harm or threat of harm to public health or the environment.

Class II: Violations for statutory notification and permitting requirements.

Class III: Procedural or reporting violations which, in themselves, do not pose direct short-term threats to the public health or environment.

The guidance provides that compliance orders will initially be issued to address only Class I and II violations and that Class III violations are to be addressed outside the formal administrative compliance order process through the issuance of warning letters. In addition, court action and imminent hazard procedures on an individual case basis, as warranted, may be taken.

According to the Chief, RCRA Permits Section, Enforcement Division, EPA region VI, the new guidance will make violations easier to assess than under past guidance. However, since the inspections generally do not emphasize technical operating violations, we believe if the current method of identifying only administrative violations continues, the issuance of compliance orders will substantially decrease as a result of the July 7, 1981, guidance unless greater efforts are made to identify technical operating violations.

CONCLUSIONS

The EPA and State inspections performed have covered only a small percentage of the facilities with interim status. EPA's enforcement efforts at facilities with interim status have consisted largely in the issuance of warning letters, notices of violations, and compliance orders against facilities which

violate the interim status regulations. The compliance orders issued, due to the nature of the regulations, have concentrated on administrative violations. Recent changes in EPA's enforcement policy may result in fewer compliance orders being issued for violation of the interim status regulations.

RECOMMENDATIONS TO THE ADMINISTRATOR, EPA

For the interim status program to operate effectively as an integral part of the hazardous waste program, the Administrator, EPA should direct that

- increased emphasis be placed on enforcement efforts including emphasis on technical violations at interim status facilities so that assurances can be provided that hazardous waste facilities meet at least minimum national requirements for hazardous waste management and
- the level of inspections needed for full implementation of EPA's enforcement role and the necessary staff assistance to carry out the enforcement role be determined.

As noted on page 17, we recognize that in the current period of budget savings, it would be difficult to obtain the additional staff and funds for interim status program needs. We believe, however, that because of the seriousness of the hazardous waste problems facing the country, EPA should (1) encourage the States to apply more existing program resources to the interim status program area and (2) consider shifting available EPA staff to the interim status program from other environmental program areas that may have been cut back. If program staffing and resource needs cannot be obtained in those ways, EPA should establish the additional needs of the program and provide such information to the appropriate congressional committees for their consideration.

NINETY-SEVENTH CONGRESS

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U.S. House of Representatives
Subcommittee on Commerce, Transportation,
and Tourism

of the
Committee on Energy and Commerce

Washington, D.C. 20515

March 19, 1981

ROOM H2-151
 HOUSE OFFICE BUILDING ANNEX NO. 2
 PHONE (202) 225-1467

GREGORY E. LAWLER
 STAFF DIRECTOR

Mr. Milton J. Socolar
 Acting Comptroller General
 U. S. General Accounting Office
 Washington, D.C. 20548

Dear Mr. Socolar:

The Congress enacted the Resource Conservation and Recovery Act in 1976 to protect the public from exposure to hazardous wastes. Subtitle C of the Act sets forth a strategy for the "cradle-to-grave" management of these wastes. The Congress directed the Administrator of the U. S. Environmental Protection Agency to promulgate regulations that ensure that these wastes are treated, stored, transported, and disposed of properly.

The Agency has successfully promulgated some of the regulations required under the Act. However, a number of these requirements are still in the proposal stage. Among those not yet finalized are the requirements pertaining to the permits for facilities as authorized in Section 3005 of the Act.

Recognizing that there would be a gap in the time between the effective date of the Act and the promulgation of the facility permitting requirements, the Congress included a provision in Section 3005 granting "Interim Status" to facility operators until final permits could be issued. Securing interim status requires the facility operator to notify the Agency of its existence and make application for a permit to operate the facility.

As of March 6, 1981, the U. S. Environmental Protection Agency has acknowledged approximately 7,000 facility operators as "in existence" on the date of enactment and therefore as eligible for "interim status" under the Act. However, few, if any, of these sites have been carefully inspected to verify that they are not presenting a threat to the public health and environment.

For this reason, there is considerable concern on the part of the Subcommittee on Commerce, Transportation and Tourism as to whether these facilities are meeting the minimal requirements necessary to have interim status. More importantly, there is real concern that some of these sites may be presenting a threat to the public health and welfare.

Mr. Milton J. Socolar
March 19, 1981
Page Two

Without rigorous inspection and enforcement, these sites will be considered in operation with Federal blessings.

The Subcommittee intends to exercise rigorous oversight and investigation into all aspects of the Federal hazardous waste management and cleanup effort. However, we intend to begin by taking a close look at the interim status issue as described above. For this reason, the Subcommittee requests the GAO to undertake an investigation to determine:

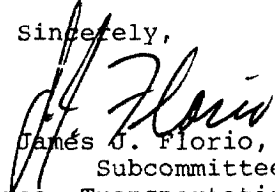
- 1) The extent to which the facilities that have been granted interim status do, in fact meet the EPA requirements;
- 2) Whether the requirements developed by EPA are sufficient to protect the public health and welfare; and
- 3) how effectively and thoroughly EPA is monitoring and enforcing these requirements.

Further, the Subcommittee recommends that GAO use whatever means necessary, including site visits, to make these determinations.

It would be greatly appreciated if the GAO would investigate these matters and report these findings by July 1, 1981. I recognize that time is short and, therefore, suggest that upon receiving this letter, you meet with the Subcommittee staff to determine the scope and procedures for conducting this investigation. Also, the GAO is encouraged to discuss the content of the report with relevant U.S. Environmental Protection Agency, state, and local officials to verify the findings therein.

I would like to stress that the Committee considers this issue to be critical to the implementation of an effective national hazardous waste management policy. I hope that the GAO will be able to move expeditiously on this matter.

Sincerely,


James J. Florio, Chairman
Subcommittee on
Commerce, Transportation and Tourism

cc: Mr. Frank Polkowski

GAO NOTE: Subsequent discussion with the requestor's office set a September 1981 report date.

(089174)

HAZARDOUS WASTE FACILITIES VISITED

<u>Name</u>	<u>Location</u>
Allied Chemical Co.	Marcus Hook, Pennsylvania
American Coil Spring Co.	Muskegon, Michigan
Barker Chemical	Chicago, Illinois
Campbell Soup Co.	Camden, New Jersey
Champlin Oil Refinery	Enid, Oklahoma
Chemical Waste Management	Dallas, Texas
Chemical Waste Management	Port Arthur, Texas
Chem-Met Services	Wyandotte, Michigan
Clement "Coverall" Company	Camden, New Jersey
Cordova Chemical Co. of Michigan	North Muskegon, Michigan
Curtis Processing Co.	Troy, Michigan
Delaware Container Co.	Coatesville, Pennsylvania
Dupont	Beaumont, Texas
Dupont Montague Works	Montague, Michigan
Ford Motor Co.	Mt. Clemens, Michigan
Ford Motor Co. Monroe Stamping Plant	Monroe, Michigan
Frinks Industrial Waste, Inc.	Pecatonica, Illinois
Guardman Chemicals Inc.	Grand Rapids, Michigan
Gulf Coast Waste Management Authority	Texas City, Texas
Gulf Oil and Chemical	Baytown, Texas
Interlake Inc.	Chicago, Illinois
IU Conversion Systems Inc.	Honeybrook, Pennsylvania
Johnson Mold and Manufacturing Co.	Muskegon, Michigan
Jones Chemicals, Inc.	Wyandotte, Michigan
Koppers Inc.	Galesburg, Illinois
McConnel/Cohen Farm	Stevenson County, Illinois
McKesson Chemical Co.	Taylor, Michigan
Mercer Generating Station	Trenton, New Jersey
Monsanto Co.	Trenton, Michigan
Pierce Waste Oil Service Inc.	Springfield, Illinois
Qu Voe Chemical Industries	Des Plaines, Illinois
Refinery Products Inc.	Sherwood Park, Illinois
United Steel Drum	East St. Louis, Illinois
U.S. Drum Disposal	Chicago, Illinois
U.S. Pollution Control Inc.	Waynoka, Oklahoma
U.S.S. Lead Refinery Inc.	East Chicago, Illinois
Vance Air Force Base	Enid, Oklahoma
Vulcan Mold and Iron Co.	Trenton, Michigan
Wastex	East St. Louis, Illinois
Wyandotte Paint Products Co.	Wyandotte, Michigan





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