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UNITED STATES GENERAL ACCOUNTING OFFICE

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STATEMENT OF
HUGH J. WESSINGER, SENIOR ASSOCIATE DIRECTOR
RESOURCES, COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION

BEFORE THE
SUBCOMMITTEE ON COMMERCE, TRANSPORTATION, AND TOURISM
OF THE
HOUSE COMMITTEE ON ENERGY AND COMMERCE
ON

EPA AND STATE INSPECTION, ENFORCEMENT, AND PERMITTING ACTIVITIES AT HAZARDOUS WASTE FACILITIES

Mr. Chairman and members of the Subcommittee:

We are pleased to be here today to discuss our September 21, 1983, report entitled "Interim Report on Inspection, Enforcement, and Permitting Activities at Hazardous Waste Facilities" (RCED-83-241). The report presents data on key elements of the federal hazardous waste regulatory program established by the Resource Conservation and Recovery Act of 1976. It is based on our work at the Environmental Protection Agency (EPA) headquarters in Washington, D.C., EPA Regions I (Boston, Massachusetts), IV (Atlanta, Georgia), V (Chicago, Illinois), and IX (San Francisco, California); and in four states--California, Illinois, Massachusetts, and North Carolina. Before completing our review, we will be performing work in EPA Region II (New York, New York) and in two additional states--New Jersey and Tennessee. We hope to issue a final report in the spring of 1984.

Perhaps the best way for me to proceed, Mr. Chairman, is to discuss the four major areas that we addressed in our interim report:

--the extent of hazardous waste facility compliance with ground water monitoring requirements;

--the extent of hazardous waste facility compliance with closure, postclosure, and financial assurance requirements;

--EPA and state inspection and enforcement programs; and

--the status of the facility permitting process.

COMPLIANCE WITH GROUND WATER MONITORING REQUIREMENTS

Federal regulations require that the owners or operators of certain hazardous waste facilities (about 1,350 nationally) institute ground water monitoring programs or document their eligibility to waive monitoring requirements. Ground water monitoring is an important tool in determining whether contaminants are being adequately contained.

We found that many of the facilities in the four states sampled are not complying with ground water monitoring requirements or their compliance status is unknown. For example, Illinois and North Carolina together have 65 facilities which are subject to ground water monitoring requirements. State records show that 51, or 78 percent, of these facilities were not complying with the requirements as of June 30, 1983. The extent of noncompliance varied from facility to facility. For example, monitoring wells had not been installed at 7 facilities and were incorrectly sited by at least 12 facilities. Other deficiencies noted concerned sampling and analysis procedures and recordkeeping and reporting. State officials in these two states told us that the two primary reasons for the noncompliance were (1) the technical complexity surrounding the proper location and

construction of wells and (2) the high costs involved to install the wells.

The other two states we visited, California and Massachusetts, did not know the extent of noncompliance because most of their facilities had not yet been inspected. Massachusetts state officials have identified 12 facilities as potentially subject to the requirements, but only 2 have installed monitoring wells. In California, uncertainty as to which state agency had responsibility has resulted in a late start in conducting needed inspections. As of March 1983, California had inspected only 22 of the estimated 105 facilities subject to ground water monitoring requirements. Nine of the 22 inspected facilites did not meet the mandatory requirements.

Based on its own nationwide study performed between May 1982 and January 1983, EPA has determined that there is extensive noncompliance with ground water monitoring requirements. EPA reported that of the 148 facilities sampled which had implemented ground water monitoring programs, between 24 percent and 32 percent had inadequately placed wells, 25 percent had problems with sampling and analysis procedures, and 36 to 40 percent had not maintained required records or had not submitted required reports.

In an attempt to improve the situation, EPA has made facilities subject to ground water monitoring requirements a high national inspection priority for fiscal year 1984. The 1984 inspections are to cover all such facilities, and are to include a detailed technical analysis of the monitoring systems, and may include sampling to determine the quality of owner- or operator-collected data.

COMPLIANCE WITH CLOSURE, POSTCLOSURE, AND FINANCIAL ASSURANCE REQUIREMENTS

Federal regulations also require owners and operators of hazardous waste facilities to demonstrate their ability to finance closure and postclosure activities when the facilities cease operations. Closure and postclosure activities include decontamination of the facilities and care and maintenance of the waste containment systems for a 30-year period. Adequate closure and postclosure plans and cost estimates are important if the required financial assurance, such as a trust fund or other financial instrument, is to be maintained to offset subsequent closure and post closure costs.

We found that the four states we reviewed did not routinely perform detailed evaluations of facility closure and postclosure plans and cost estimates. These states, therefore, could not effectively evaluate the financial assurance instruments for adequacy because the amount of financial assurance required is based on these plans and cost estimates. The reasons cited by officials of three of the states were a need for EPA procedures and guidance, and limited inspection resources which were used on higher priority activities. Massachusetts has not yet issued the financial assurance regulations but plans to do so in early fiscal year 1984.

We asked 21 inspectors in the four states how they evaluated closure and postclosure plans and cost estimates. Eight inspectors said that they looked for the presence or absence of the required plans and estimates, while 12 said that they made only cursory evaluations to determine that the plans and estimates

were complete. Only one inspector claimed to make a thorough evaluation. Most inspectors stated that they did not have the time, training, detailed criteria, and cost estimation guides necessary to adequately evaluate the plans and cost estimates.

Based on evaluations conducted by EPA headquarters staff during 1-week visits to 8 of the 10 EPA regions between December 1982 and September 1983, information was developed indicating that many closure and postclosure plans are inadequate, and that many facility owners and operators are not complying with financial assurance requirements. In addition, the Office of Solid Waste and Emergency Response noted in a July 7, 1983, memorandum that the facilities surveyed generally addressed only 50 percent of the items required to be included in closure plans, postclosure plans, and cost estimates. The memo also noted that these findings are especially disturbing given that closure and postclosure plans and cost estimates serve as the basis for the required financial assurance instruments.

In an attempt to improve this situation, EPA has made the review of facility closure and postclosure plans, and cost estimates for all major facilities a high priority in fiscal year 1984, and also plans to provide additional training guidance.

INSPECTION AND ENFORCEMENT PROGRAM

Turning now to the overall hazardous waste facility inspection and enforcement program, two years ago we reported that EPA and state inspections were limited. Of the 7,056 interim status facilities (facilities that are operating pending issuance of a permit) in the four EPA regions we reviewed in 1981, only

830, or 12 percent, had been inspected. Inspections are important because they are the primary means to detect and document health and environmental problems at interim status facilities. Our current review shows that there may have been some improvements. As of December 31, 1982, 45 percent of the 1,398 facilities we reviewed had been inspected by the states. Although 55 percent of these facilities had not been inspected, most major facilities (primarily land disposal facilities and incinerators) in two of the four states were inspected. Major facilities represent about 10 percent of all hazardous waste facilities.

We also reported earlier that enforcement efforts at these facilities had not been extensive. These actions consisted largely of issuing warning letters, notices of violations, and compliance orders against facilities in noncompliance with interim status regulations. As of May 28, 1981, EPA had issued only 123 compliance orders nationwide. Penalties totaling about $466,000 had been assessed against 37 hazardous waste facilities. Our current review of 739 inspection reports from five state field offices showed similar results. Most violations (75 percent) resulted in the issuance of warning letters or notices of violation. Twenty-five compliance orders had been issued, and penalties totaling about $142,000 were assessed against nine facilities.

STATUS OF FACILITY PERMITTING

The last topic I will discuss is the status of the facility permitting process. 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 whereby facilities that were in operation on or before November 19, 1980, may continue operating under "interim status" until a final hazardous waste permit is issued.

Final permitting is important because interim status facilities need only comply with interim status requirements. Only when facilities receive final permits must they comply with all the technical and design standards that EPA believes may be necessary to protect human health and the environment. Through October 1983, only 80 of the estimated 8,000 facilities expected to require permits had received final permits. According to EPA officials, permitting of all facilities is expected to be completed by 1990 and could extend to 1993. Due to the long period of time involved, EPA has established priorities for permitting. Land disposal facilities are considered top priority, followed by incinerators. Storage and treatment facilities are assigned the lowest priority. Because so few permits have been issued, it is too early to evaluate the effectiveness of EPA's permitting process.

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As I mentioned earlier, our work is not yet complete. Along with our work currently in process in another EPA regional office and two states, we hope to define what actions EPA and the states plan to take regarding the issues discussed in our report and attempt to assess those actions.

Mr. Chairman, this concludes my statement. We will be pleased to respond to your questions.

FOR RELEASE ON DELIVERY
Expected at 9:00 a.m.
Wednesday, November 16, 1983

UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

STATEMENT OF

OLIVER W. KRUEGER, ASSOCIATE DIRECTOR

RESOURCES, COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION

BEFORE THE

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SUBCOMMITTEE ON SURFACE TRANSPORTATION

UNITED STATES HOUSE OF REPRESENTATIVES

ON

THE INFLUENCE OF THE MOTOR CARRIER ACT OF 1980 ON TEAMSTERS' EMPLOYMENT

Mr. Chairman and Members of the Subcommittee:

We are here today at your request to discuss the impact of regulatory reforms in the Motor Carrier Act of 1980 (the act) on Teamsters' employment. Last year we issued a report at the request of Senator DeConcini entitled "Effects of Regulatory Reform on Unemployment in the Trucking Industry," (GAO/CED-82-90, June 11, 1982). At that time we pointed out that there was a strong relationship between high trucking unemployment and the general downturn in the economy. This relationship made it hard to determine the effect of the regulatory reforms on unemployment in the trucking industry.

In recent testimony before this Subcommittee, officials of the International Brotherhood of Teamsters presented evidence of extensive layoffs among their union members since the passage of the act. In our statement today, we review this evidence in the context of an economy that has undergone a serious recession and an industry that has been substantially deregulated. We will also briefly discuss the issue of how deregulation has affected trucking service for small towns and small shippers.

GROWTH IN NUMBER OF TRUCKING FIRMS INCREASES COMPETITION

The Interstate Commerce Commission (ICC) took administrative steps to reduce the regulatory framework in the trucking industry well before the Motor Carrier Act of 1980 was passed. Beginning in 1977, ICC under its own authority, eased entry for new carriers, relaxed restrictions on carriers' operations, and expanded the area carriers could serve.

The Motor Carrier Act, while not totally deregulating the trucking industry, substantially reduced government control of the industry. The act made it easier for carriers to enter the industry, eliminated certain operating restrictions placed on regulated carriers, and encouraged greater price competition among motor carriers.

Increase in Motor Carriers

The total number of motor carriers regulated by the ICC has continually increased since entry requirements began to be eased in 1977. In 1977 over 16,000 firms were registered with the ICC; by 1982 the number of registered firms increased to over 25,000.

The Motor Carrier Act not only made it easier for new carriers to enter the marketplace, but it also expanded the geographic coverage and range of commodities the carriers were authorized to handle. In addition, the ICC has often granted carriers broader operating authorities than requested in their applications. In 1976, 6,746 applications were submitted to the ICC for new and expanded permanent operating rights, and ICC approved about 70 percent of the applications. In contrast, the number of applications increased to a high of 28,414 in 1981, but fell to 15,553 in 1982. The ICC believes that the 1982 decrease was due mostly to the recession. From 1979 through 1982, the ICC approved an average of 96 percent of the applications.

Motor Carrier Failures

While the overall number of trucking firms has increased, a number of trucking firms have failed. An official of the American Trucking Associations told us that as of June 1983, ATA has identified 233 trucking companies employing over 24,000 workers that have gone out-of-business since June 1980. An additional 41 motor carriers employing about 30,000 workers were reported to be operating under Chapter 11 of the Federal Bankruptcy Statutes. Industry sources generally attribute the causes of failure to a combination of more entrants into the industry, a declining economy, and price competition.

The net effect to date of new firms entering the industry and firms going out of business has been an increase in the number of firms in the marketplace. Between 1980 and 1982 the number of carriers regulated by the ICC increased by more than 7,600, representing an increase of about 43 percent.

PRICE COMPETITION IS INCREASING

The many new entrants into the trucking industry and the decline in economic activity since passage of the act, have combined to induce lower trucking rates. The ICC reported in October 1983 that since 1980, rates by general freight less than truckload carriers have either fallen or are increasing less rapidly than before the act. In many cases, rates were reported to be down in the range of 10 to 20 percent as a result of widespread rate reductions. A number of cases have been reported in which shippers have received reductions of up to 40 percent. The price reductions following the 1980 Act have been greater in magnitude and more extensively applied than the rate reductions offered during the 1974-75 recession, reflecting the increased competitive pressures coming from new entrants. A March 1982 Federal Trade Commission study also showed that the act and the recession have combined to create lower trucking rates. That study noted that there is no evidence that large carriers are engaging in below cost pricing to eliminate their competitors.

INCREASED COMPETITION AFFECTS BOTH INDUSTRY AND LABOR

Before the regulatory reforms were in place, regulated carriers operated in a protected environment. Competitive forces that tend to require efficiency and drive prices down were very weak. Carriers, either individually or collectively, could not, of course, charge any rates they wanted to without consideration of the demand for trucking services. However, restrictions prevented potential new entrants from competing for business and also constrained established carriers from reducing their rates without

the agreement of their competitors. The system for establishing rates also failed to promote efficient operations since firms could merely pass along cost increases to shippers. The entry restrictions and ratemaking procedures combined to allow rates to remain above what they most likely would have been in a more competitive market. With entry restrictions virtually eliminated by the 1980 act, many new firms, as I have noted previously, are entering the various markets in competition with established carriers.

In the absence of a recession, one would expect that rate reductions would increase business for the trucking industry, depending on how responsive demand for trucking is to changes in price. But, deregulation would also be expected to induce shifts in business to those carriers offering service at lower rates. Often the new competitors use non-union drivers with salaries below the Teamsters' operating under the National Master Freight Agreement (Master Agreement Teamsters). The new carriers are thus in a strong position to attract business from those established carriers who are unable to reduce their wage costs. Since wages are such a large share of trucking firms' total costs, the larger the wage differential and the longer it persists, the more business low wage firms are likely to attract.

Historically, the Master Agreement Teamsters, through collective bargaining with the regulated carriers, were able to share in the additional revenues that those carriers earned because of their protected positions. The Master Agreement Teamsters have earned among the highest wages of any category of

truck drivers. Although numerous factors--such as higher productivity--might have contributed to those wage levels, it is clear that regulation was also an important factor. Thus following passage of the 1980 act, the competitive environment has been accompanied by a freeze of the wages of Master Agreement Teamsters through the collective bargaining process as well as increased layoffs of those Teamsters.

Even though deregulation appears to be leading to lower costs and over time should increase business for the trucking industry as a whole, it is currently hurting carriers and drivers who are unable or unwilling to reduce wage costs sufficiently to match the new competition. As a result, layoffs of Master Agreement Teamsters and bankruptcies of previously regulated firms have been occurring at the same time as new firms employing new truck drivers enter the market.

The increased competition stimulated by the act is also leading to structural shifts in the share of tonnage hauled by general freight carriers and the share of drivers represented by Teamsters working under the Master Agreement. Since 1980, haulers of general freight, whose workers are predominately represented by the Master Agreement Teamsters, have been losing a substantial share of truck tonnage to a growing number of independent owner-operators, new truckload carriers, and some private company truck operations. Tonnage for these general freight carriers fell by 40 percent between 1979 and 1982. Data from truckstop surveys show that the percentage of union drivers for nearly all types of carriers decreased between 1978 and 1982. For example, the number of

union drivers for regular route common carriers decreased from 84 percent of the total in 1978 to 70 percent in 1982, and union drivers for private carriers decreased from 32 percent in 1978 to 26 percent in 1982.

COMMENTS ON TEAMSTERS SURVEY

Let me turn now to a discussion of the data presented last month to the Subcommittee by the Teamster officials. In their study of 36 local unions, the Teamsters found that the percentage of workers with seniority rights under the Master Agreement that are on layoff has increased substantially. This study does not use a random sample of all union members. However, the Teamsters believe that the sample is sufficiently representative to allow them to estimate that the layoff rate in April of 1983 was between 29 and 36 percent. In addition, four Teamster locals provided data that showed that many of their laid off members had been on layoff for a substantial period of time.

We have not attempted to validate the Teamsters' estimates and, therefore, cannot comment on their accuracy. However, their general conclusion, that layoffs of Master Agreement Teamsters have been substantial during the last 3 years, is consistent with what one would expect when both entry and pricing restrictions are lifted. By lifting these restrictions, the government allowed new entrants to compete with established carriers by employing lower paid workers and offering lower rates to shippers. Then, when the recession set in, there was a reduction in the overall demand for trucking services. Thus, there was less tonnage to be carried by more carriers, putting substantial competitive pressures on the higher cost carriers.

We have two general observations on the Teamsters layoff study. First, the Teamsters looked only at layoffs of workers with seniority rights under the National Master Freight Agreement. Their study does not say anything about either the number of unemployed or rates of unemployment in the general trucking industry. To look at the broader effects of the act on industry employment one would have to take into account possible increases in the number of workers in the industry not represented by the Master Agreement Teamsters. Second, workers who have been laid off by union carriers do not necessarily remain laid off until they are recalled or find work with another union carrier. The Teamsters study does not say how many of the laid off workers with Master Agreement Teamsters seniority rights have found other jobs, either inside or outside the trucking industry.

The analysis of trucking industry unemployment that GAO performed last year suggested that economic conditions are very important in explaining the increase in unemployment in the trucking industry since the act was passed. Our analysis, however, focused on the entire trucking industry, not just the segment represented primarily by Master Agreement Teamsters. Labor shifts from the Master Agreement Teamsters to other segments of the industry were not measured in our analysis. As we suggested in our testimony last year, the Nation has not yet had enough experience with a deregulated environment to do the careful statistical analysis needed to determine with precision how much each factor has contributed to changes in trucking industry employment.

SERVICE TO SMALL SHIPPERS AND SMALL TOWNS

Finally, let me turn briefly to the issue of how deregulation has affected trucking services for small towns and small shippers. In their testimony last month, Teamsters officials contended that small towns and small shippers are facing much higher rate increases under deregulation than in the 1970s. To evaluate this contention we reviewed several studies of truck service to small communities and small shippers since passage of the act. The ICC and the Department of Transportation have issued reports on this subject and there have been several independent reports and articles published in trade journals.

The reports we reviewed generally found that trucking deregulation has not adversely affected service to small communities and small shippers. These studies indicate little change in the quality or availability of truck service since passage of the act. Very few shippers report deteriorating service. Most small shippers reported that rates have risen only as fast as the overall price level has increased, or have declined slightly. Where service has changed, the ICC reports these changes have, in most cases, benefitted small communities and shippers.

Although these studies are not conclusive, they do present evidence that deregulation has not had unduly adverse effects on small shippers and small communities.

In conclusion, Mr. Chairman, we believe the Motor Carrier Act of 1980, while not totally deregulating the industry, has increased competition in the trucking industry. Increased competition, in turn, tends to create pressures on firms to operate

efficiently and keep prices of truck transportation lower. The competitive forces in the marketplace together with a slow economy have contributed to a number of trucking firms going out of business and to increased layoffs of Master Agreement drivers. Substantial tonnage previously hauled by general freight carriers has shifted to independent owner-operators, existing firms, and new lower cost trucking firms. While we cannot precisely distinguish the effects of the economy and deregulation, the increase in layoffs among Master Agreement Teamsters and the decline in their share of total trucking employment are consistent with how one would expect the trucking industry to respond to a lifting of entry and pricing restrictions.

Mr. Chairman, this concludes my statement. We will be glad to respond to your questions.

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