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SUPERFUND

Backlog of Unevaluated Federal Facilities Slows Cleanup Efforts





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**Resources, Community, and
Economic Development Division**

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The Honorable John D. Dingell
Chairman, Committee on Energy
and Commerce
House of Representatives

The Honorable Al Swift
Chairman, Subcommittee on Transportation
and Hazardous Materials
Committee on Energy and Commerce
House of Representatives

As requested, this report discusses the Environmental Protection Agency's (EPA) and other federal agencies' progress in assessing and evaluating federal facilities with potential hazardous waste contamination. This report contains a recommendation to the Administrator of EPA and a matter for congressional consideration.

As agreed with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Administrator, EPA; the Secretaries of the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, the Interior, Transportation, and Veterans Affairs; the Director, Office of Management and Budget; and other interested parties. We will also make copies available on request.

This work was performed under the direction of Richard L. Hembra, Director, Environmental Protection Issues, who can be reached on (202) 512-6111 if you or your staff have any questions. Other major contributors to this report are listed in appendix II.

J. Dexter Peach
Assistant Comptroller General

Executive Summary

Purpose

As of February 1993, federal agencies reported owning or operating over 1,900 potentially contaminated facilities, including military installations, research laboratories, maintenance facilities, landfills, and nuclear weapons plants. Each facility includes one or more hazardous waste sites that may require cleanup. Some of these facilities now rank among the largest and most heavily contaminated in the nation. Cleaning up this hazardous waste legacy will take decades and will cost hundreds of billions of dollars. By law, federal agencies are required to assess and clean up their facilities. The Environmental Protection Agency (EPA) is responsible for overseeing the assessments and for including the worst facilities in its Superfund program. The law establishes specific deadlines for evaluating federal facilities and for deciding whether to put them in the Superfund program.

In preparation for the upcoming Superfund reauthorization, the Chairman of the House Committee on Energy and Commerce and the Chairman of its Subcommittee on Transportation and Hazardous Materials asked GAO to examine a number of Superfund issues. This report addresses the Chairmen's concerns about progress in meeting deadlines for evaluating federal facilities. Specifically, GAO was asked to (1) determine whether EPA and other agencies have met the statutory deadlines and evaluate EPA's and the other agencies' progress; (2) estimate the number of federal facilities that will ultimately be listed in the Superfund program; and (3) assess the reasons for delays if the statutory deadlines have not been met.

Background

In 1980, the Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund. The act gave EPA broad authority to respond to releases of hazardous contaminants from waste sites and established a trust fund financed primarily by taxes on crude oil and certain chemicals. This fund may be used for cleanups at sites included on EPA's National Priorities List (NPL), a register of the worst known hazardous waste sites. The law also authorized EPA to compel parties responsible for sites to clean them up or reimburse EPA for the cleanup costs. The Congress reauthorized the program and increased its funding in the Superfund Amendments and Reauthorization Act (SARA) of 1986. Superfund was reauthorized again in 1990.

Federal agencies have the same cleanup responsibilities as private parties under Superfund. However, federal agencies are prohibited from using the Superfund trust fund to finance their cleanups and must, instead, use their

own or other appropriations. Annual funding for federal agency cleanups and environmental compliance more than tripled—from \$3 billion to \$9.5 billion—between 1989 and 1993. The Departments of Defense and Energy—the two agencies with the most serious environmental problems—received the bulk of this funding. Total cleanup and compliance cost estimates for these two agencies are close to \$200 billion.

SARA required EPA to establish and maintain a docket listing potentially contaminated federal facilities. EPA's initial docket contained 823 facilities. Under SARA, EPA was to take steps to ensure that federal agencies completed a preliminary assessment of the 823 facilities by April 1988. If warranted by the results of the preliminary assessment, EPA expected federal agencies to conduct a second assessment, called a site inspection, to gather more information. EPA was then required to evaluate and list eligible facilities on the NPL by April 1989.

Results in Brief

EPA has not met its statutory deadlines under SARA. As of December 1992, EPA reported having completed evaluations on only 500 of the 823 potentially contaminated facilities. Since the original docket was published in 1988, the number of facilities on it has more than doubled, a substantial backlog has developed, and the cleanup of potentially dangerous sites has been deferred and possibly been made more expensive. At its current pace, EPA may take more than a decade to finish evaluating docketed facilities and placing appropriate facilities on the NPL. The ultimate number of facilities to be listed is uncertain because the current rate of listing facilities may change and agencies have not yet reported all their eligible facilities to EPA.

EPA did not meet the SARA deadlines primarily because it did not place a high enough priority on assessing and evaluating federal facilities. EPA and other federal agencies never established a plan for jointly responding to the mandates. EPA only began to devote more resources and attention to federal facilities following a 1991 court order. In addition, some federal agencies did not place a high priority on environmental programs and contributed to delays by providing EPA with late or incomplete facility assessments.

Principal Findings

Progress in Evaluating Facilities

As of December 1992, over 3 years after the April 1989 statutory deadline for completing Superfund evaluations for the 823 facilities on the original docket, EPA had evaluated and made listing decisions for only 500 facilities. In response to a 1991 court order to speed up evaluations in one of its regions and concerns about additional litigation, EPA has placed a greater priority on evaluating the remainder of these facilities.

While EPA focused on the 823 facilities, a substantial backlog of more recently docketed facilities developed. Updates had more than doubled the docket's size, increasing from 823 to 1,930 facilities, as of February 1993. Over 1,000 of these 1,930 facilities still need decisions on Superfund listing. At its current pace of adding about 12 federal facilities per year to the NPL, EPA may need over a decade to complete listing decisions for these facilities. The backlog of unevaluated federal facilities could result in an increased risk to public health and the environment from lengthy delays in cleanup or expensive rework if agencies do their own cleanup and are later required by EPA to do a different or more extensive cleanup.

Estimates of Future Superfund Facilities

There is no certain way to estimate how many federal facilities EPA will eventually include on the NPL. EPA's past experience with listing federal facilities indicates that about 200 more of the currently identified facilities could be added to the NPL, bringing the NPL total to over 300. EPA, however, does not yet know whether the remaining facilities are more or less contaminated than those already evaluated; therefore, the rate of listing facilities may change. In addition, the universe of facilities to be evaluated will continue to grow because some agencies have not completed their inventories and others have yet to report identified sites to EPA. Some EPA officials thought that as many as several hundred more federal sites might be listed on the NPL.

Reasons for Missing the Deadline

EPA concluded in 1987 that it could not meet the SARA federal facility deadlines because of resource limitations. EPA gave limited attention to the program, devoting insufficient resources to federal facilities and never developing a plan with other federal agencies for responding to the SARA deadlines. In addition, EPA established annual goals for doing final site

assessments that were too low to enable it to meet the SARA deadlines. EPA acknowledged its vulnerability when it cited the oversight of federal facilities' cleanup as a material weakness in its 1991 and 1992 Federal Managers' Financial Integrity Act reports.

In addition, some federal agencies have not always viewed hazardous waste cleanup programs as a high priority and have sometimes provided EPA with late or incomplete assessments. For example, EPA encountered problems with missing data on assessments from the Department of Defense and late assessments from the Departments of Agriculture and Transportation.

Recommendation

To expedite action on federal facilities and to establish accountability for cleanup progress, GAO recommends that the Administrator, EPA, in consultation with other federal agencies, develop a Superfund plan to address the backlog of unevaluated federal facilities. This plan should be completed in time to be considered by the Congress during the Superfund reauthorization process. GAO discusses the specific components of this plan in chapter 4.

Matter for Congressional Consideration

As part of the upcoming Superfund reauthorization process, the Congress may wish to require EPA and federal agencies to report on the status of their docketed facilities in their annual Superfund reports to the Congress.

Agency Comments

EPA provided written comments on a draft of this report. EPA said that the draft was an accurate portrayal of the issues, and the agency did not express agreement or disagreement with GAO's recommendation. EPA noted that implementation of the recommendation would require a change in priorities and/or additional resources, especially if the agency were to prepare a plan by the time the Congress considers Superfund reauthorization. GAO also discussed its findings with officials responsible for environmental programs at the Departments of Agriculture, Defense, Energy, the Interior, and Transportation and at the National Aeronautics and Space Administration. These officials generally agreed with GAO's findings, and they provided comments that GAO incorporated into the report where appropriate.

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Abbreviations

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CERCLIS	Comprehensive Environmental Response, Compensation, and Liability Information System
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of the Interior
DOT	Department of Transportation
EPA	Environmental Protection Agency
GAO	General Accounting Office
NASA	National Aeronautics and Space Administration
NPL	National Priorities List
SARA	Superfund Amendments and Reauthorization Act
USDA	U.S. Department of Agriculture

Introduction

As of February 1993, federal agencies reported owning or operating over 1,900 facilities where hazardous waste might have been disposed of, including research laboratories, maintenance facilities, landfills and dumps, and nuclear weapons plants. The seriousness of contamination varies greatly among federal facilities, ranging from relatively minor problems at remote locations on public lands to extreme toxicity at nuclear weapons plants near more populated areas. Although many agencies are still discovering potentially contaminated facilities, estimates of cleanup costs for those already known are in the hundreds of billions of dollars. Federal hazardous waste laws require federal agencies to identify, assess, and clean up their contaminated facilities and make the Environmental Protection Agency (EPA) responsible for overseeing the assessments and including the worst facilities in the Superfund program. The 1980 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended—commonly known as Superfund—imposes specific deadlines for assessing federal facilities and deciding which ones belong in the Superfund program.

The Superfund Program

CERCLA established a trust fund, financed primarily by taxes on crude oil and certain chemicals, that EPA uses, in part, to clean up hazardous waste sites included on its National Priorities List (NPL), a register of the nation's worst known hazardous waste sites. The trust fund may also be used for emergency removal actions at sites that may or may not be on the NPL. The law also authorizes EPA to compel parties responsible for hazardous waste sites that require long-term cleanup to study and clean up the sites at their own expense or reimburse EPA for the cleanup costs.

In 1986, to accelerate cleanup efforts, the Superfund Amendments and Reauthorization Act (SARA) set yearly numerical cleanup goals for all NPL sites. SARA required that EPA revise the system for ranking site hazards, used to determine a site's eligibility for Superfund, and emphasized the need for increased attention to federal sites by addressing federal facilities in a separate section of the law. SARA required EPA to create a docket listing federal facilities with potential hazardous waste problems and set deadlines for initiating and completing various contamination assessments. SARA also added \$8.5 billion to the original \$1.6 billion trust fund authorization. The Congress reauthorized CERCLA again in 1990, making no substantive changes to the program but authorizing an additional \$5.1 billion, raising the program's cumulative authorization to \$15.2 billion. At the end of fiscal year 1992, EPA reported that disbursements for the Superfund program were \$7.3 billion.

Federal agencies have the same cleanup responsibilities as private parties under Superfund. However, federal agencies must fund cleanups from their own or other appropriations rather than from the trust fund. Over the past 5 years, from 1989 to 1993, total annual appropriations for environmental cleanup and compliance¹ by federal agencies have more than tripled—from \$3 billion to \$9.5 billion. The Departments of Defense (DOD) and Energy (DOE)—the two departments with the most serious environmental problems—received over 97 percent of the funding in 1993. In fiscal year 1993, appropriations for cleanup and waste management programs at these departments were \$3.7 billion and \$5.5 billion, respectively.² Total cleanup and waste management cost estimates for DOD and DOE sites are close to \$200 billion.

As of January 1993, the NPL contained over 1,200 sites, of which 123 were federal facilities. EPA generally lists an entire federal facility—such as a military installation—on the NPL. Therefore, the federal facilities on the list may contain numerous sites requiring investigation and cleanup and may pose more complex cleanup problems than typical nonfederal sites.

Federal Facility Assessments Under SARA

SARA required EPA to establish and maintain a comprehensive docket as the primary source of information about the number of federal facilities with potential hazardous waste problems. To compile the docket, EPA uses information that federal agencies, states, and private parties must provide under various reporting requirements contained in both CERCLA and another law dealing with hazardous wastes, the Resource Conservation and Recovery Act. In February 1988, EPA published the first docket, consisting of 823 facilities.³ As of February 1993, EPA had updated the docket seven times, more than doubling its size to 1,930 facilities.

Once a facility is placed on the docket, federal agencies must begin a series of assessments to provide EPA with the information needed to evaluate whether the contamination is serious enough for the facility to be placed on the NPL. By executive order, the authority to conduct these assessments is delegated to the federal agency that owns or operates the facility, and the responsibility for determining whether a facility should be

¹Cleanup—or environmental restoration—refers to cleanup of past contamination. Compliance—or waste management—refers to control and reduction of current pollution.

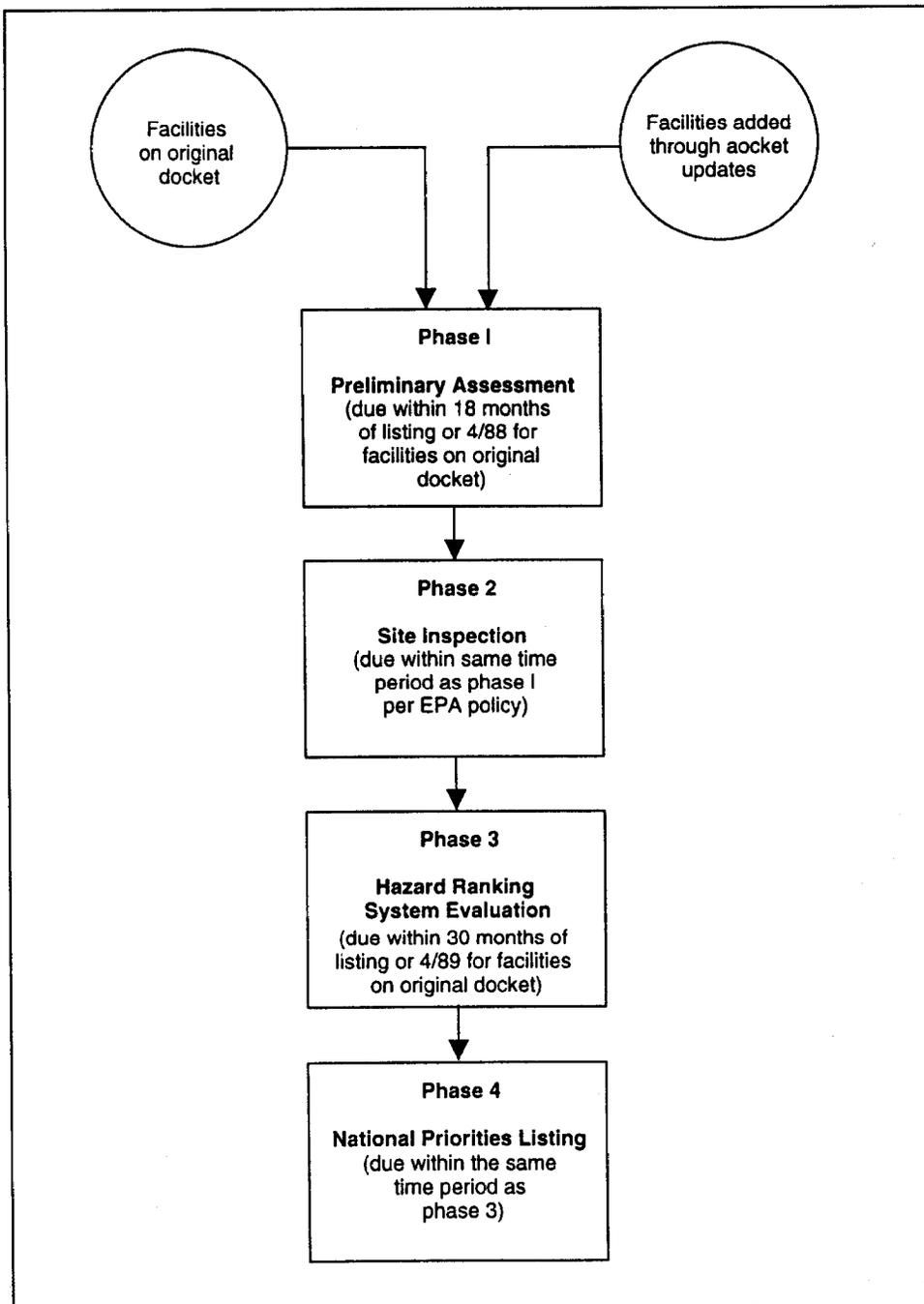
²For DOD, the cleanup portion of the fiscal year 1993 appropriation is about \$1.6 billion. For DOE, about \$1.9 billion of the \$5.5 billion fiscal year 1993 appropriation is for cleanup.

³EPA's Feb. 1988 docket initially contained 1,095 facilities. Because erroneously listed facilities were deleted, the number was reduced to 823 facilities.

placed on the NPL rests with EPA. The first phase of the process is the preliminary assessment, during which the responsible agency gathers readily available information regarding the extent of contamination at the facility so that EPA can determine whether emergency action is called for, additional investigation is needed, or no further action is necessary (see fig. 1.1). If additional information is needed, the second phase—a site inspection—must be conducted by the responsible federal agency. The site inspection involves collecting environmental samples and may also include some monitoring, surveys, and tests. If warranted by the results of the site inspection, EPA proceeds with the third phase, which involves scoring the facility using the Hazard Ranking System.⁴ If the site scores 28.5 or greater, EPA proposes a site for entry onto the NPL, receives public comment on the proposal, and makes its final decision. Once a facility is listed on the NPL, the responsible agency must, not later than 6 months after listing, begin a field study, known as a remedial investigation, followed by a feasibility study of alternative remedial measures. SARA requires that “substantial continuous” remedial action must be started not later than 15 months from the completion of the feasibility study.

⁴The Hazard Ranking System is the scoring system EPA uses to assess the risk of hazardous waste sites and to determine which ones should be placed on the NPL.

Figure 1.1: Facility Assessment
Phases Under SARA and EPA
Timetables



SARA required that the initial phases of the process outlined above be completed within the following time frames:

- By April 1988, EPA was to take steps to ensure that agencies completed preliminary assessments for all facilities on the original docket (phase 1). While not specifically covered under the statutory deadlines, EPA policy was that site inspections (phase 2), if needed, also were to have been completed by April 1988.
- By April 1989, EPA was to complete its evaluation of the severity of hazardous waste problems at the original docket facilities and place those that qualified on the NPL (phases 3 and 4).

Although the initial docket was published just 2 months before the first deadline, over 500 of the 823 originally docketed facilities were discovered before SARA was enacted, and many facilities were already being addressed by EPA and the federal agencies. For example, federal agencies had already completed preliminary assessments at 242 of these facilities before SARA's enactment. The SARA deadlines only apply to the 823 originally docketed facilities. However, EPA's policy for subsequently docketed facilities is that the preliminary assessment and any site inspection should be completed within 18 months—the same time period given under SARA.

Nature and Extent of Federal Hazardous Waste Problems

Despite the potential magnitude of the federal cleanup effort, most federal agencies did not begin immediately after passage of CERCLA to meet Superfund requirements for facility assessments. In several previous reports, GAO examined federal agencies' progress in identifying and assessing hazardous waste sites on their lands or facilities and taking corrective actions where necessary. In 1984, GAO reported that a number of federal agencies had not attempted to identify hazardous substance disposal sites on their facilities and had not assessed all identified sites to determine whether they needed cleanup.⁵ In 1987, GAO again found that federal agencies had been slow to identify, assess, and clean up their hazardous waste sites.⁶ Of the 11 agencies we reviewed, only 4 had completed their site identification efforts and none had completed their assessments. In addition, between 1985 and 1988, GAO reported that although the Departments of Defense and Energy had been making efforts

⁵Status of Civilian Federal Agencies' Efforts to Address Hazardous Waste Problems on Their Lands (GAO/RCED-84-188, Sept. 28, 1984).

⁶Superfund: Civilian Federal Agencies Slow to Clean Up Hazardous Waste (GAO/RCED-87-153, July 24, 1987).

to identify potential hazardous waste sites, their efforts were incomplete and many identified sites had not yet been assessed and cleaned up.⁷

In 1992, GAO testified on, among other things, the limited progress EPA and other federal agencies had made in evaluating the growing backlog of federal sites to determine whether they should be included in the Superfund program.⁸ GAO found that EPA had devoted limited resources to evaluating federal facilities for the Superfund program and to overseeing agency cleanups. As a result, GAO said that EPA may be unable to deal with future increases in the number of federal Superfund facilities.

Objectives, Scope, and Methodology

In preparation for the upcoming Superfund reauthorization, the Chairman of the House Committee on Energy and Commerce and the Chairman of its Subcommittee on Transportation and Hazardous Materials asked GAO to examine a number of Superfund issues. This report addresses the Chairmen's concerns about progress in meeting deadlines to evaluate federal facilities. As agreed, we addressed the following questions:

- Did EPA and federal agencies meet SARA deadlines, and what progress has been made toward evaluating and listing all federal facilities identified as potentially hazardous?
- What is the estimated number of federal facilities that EPA will ultimately place on the NPL?
- If the SARA deadlines were not met, what caused the delay?

We performed our work at EPA headquarters in Washington, D.C., and at EPA Regions 1 (Boston), 5 (Chicago), and 9 (San Francisco). We selected these three EPA regions on the basis of geographic distribution and the number of federal facilities overseen by the regions. We also conducted work at six federal agencies that together accounted for 93 percent of the federal facilities on EPA's original docket: the Departments of Agriculture, Defense, Energy, the Interior, and Transportation and the National Aeronautics and Space Administration.

To determine whether EPA and federal agencies met SARA assessment and listing deadlines and the current status of docketed federal facilities, we

⁷Nuclear Waste: Problems Associated With DOE's Inactive Waste Sites (GAO/RCED-88-169, Aug. 3, 1988); Efforts to Clean Up DOD-Owned Inactive Hazardous Waste Disposal Sites (GAO/NSIAD-85-41, Apr. 12, 1985); Department of Defense Hazardous Waste Management (GAO/T-NSIAD-88-4, Nov. 5, 1987).

⁸Federal Facilities: Issues Involved in Cleaning Up Hazardous Waste (GAO/T-RCED-92-82, July 28, 1992).

analyzed data from EPA's Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) and EPA's Federal Facilities Hazardous Waste Compliance Data Base (version 6) for the 1,707 federal facilities identified as potentially hazardous in EPA's July 1992 Docket. CERCLIS is EPA's primary data base on assessment and cleanup activity at reported hazardous waste sites. We did not perform a reliability assessment of controls over the data in CERCLIS. However, we did check the data we used through discussions with EPA and agency personnel, comparisons with the Federal Register and other listings, and reviews of inspection and enforcement files. We obtained the concurrence of EPA headquarters assessment and enforcement officials regarding the reasonableness of the criteria we established. We also provided CERCLIS data on the progress of federal sites to the agencies responsible for those sites to obtain their comments on the data's reasonableness.

To determine why Superfund deadlines were not met, we interviewed EPA headquarters and field staff responsible for federal facility assessments and evaluations. We also interviewed responsible staff at the federal agencies included in our review regarding the delays. In addition, we obtained reports, internal memoranda, and other documents pertaining to identifying hazardous waste facilities and compiling inventories; reporting facilities to EPA; and completing preliminary assessments, site inspections, and Superfund evaluations and listings.

To obtain information about the number of federal facilities that may ultimately be placed on the NPL, we interviewed EPA officials and discussed the reasonableness of the estimation methodology they used. We also examined EPA studies and agency reports that included estimates of the number of federal facilities that would become NPL sites. We compared EPA projections with those we obtained from other federal agencies and discussed potential NPL sites with federal agency officials.

EPA provided written comments on a draft of this report. These comments are presented and evaluated in chapters 3 and 4 and are reprinted in appendix I. We also discussed our findings with representatives of the other six agencies included in our review and incorporated their comments where appropriate.

Our review was conducted between February 1992 and February 1993 in accordance with generally accepted auditing standards.

EPA Did Not Meet SARA Deadlines for Facility Evaluations

Despite SARA's mandate for quick action, EPA did not meet the deadlines set in the law and has made only limited progress toward evaluating federal facilities for possible inclusion on the NPL. SARA gave EPA until April 1989 to evaluate the 823 federal facilities on the original docket for inclusion on the NPL. But EPA had evaluated and made listing decisions for only about 500 of the facilities as of December 1992. In the meantime, the number of facilities added to the original docket has more than doubled. If EPA maintains its present pace of adding 12 federal facilities per year to the NPL, it may need well over a decade to complete the evaluation process for the facilities remaining on the current docket. Moreover, there is no certain way to estimate how many of the facilities yet to be evaluated will be added to the NPL because EPA estimates vary widely and the universe of facilities to be assessed has not yet been fully identified by federal agencies.

Status of the 823 Facilities on the Original Docket

Preliminary assessments for all 823 facilities were not completed by SARA's initial April 1988 deadline, and EPA did not evaluate and place all of the most severely contaminated facilities on the NPL by SARA's second deadline of April 1989. As table 2.1 shows, EPA had approved preliminary assessments for 395 of the 823 federal facilities, or about 48 percent, by April 1988. EPA had evaluated 226 facilities by April 1989, placing 35 facilities, or 15 percent, on the NPL.

**Chapter 2
EPA Did Not Meet SARA Deadlines for
Facility Evaluations**

Table 2.1: Number of Federal Facilities on Original Docket That Had EPA-Approved Assessments and Evaluations by the SARA Deadlines, by Agency

Agency	Facilities on docket	Facilities that met April 1988 assessment deadline^a (percent of those on docket)	Facilities that met April 1989 evaluation deadline^b (percent of those on docket)
Agriculture	11	5 (45%)	5 (45%)
Air Force	107	67 (63%)	25 (23%)
Army	130	86 (66%)	40 (31%)
Navy	174	80 (46%)	19 (11%)
Other Defense	30	14 (47%)	12 (40%)
Energy	34	19 (56%)	7 (21%)
Interior	231	103 (45%)	83 (36%)
NASA	11	3 (27%)	2 (18%)
Transportation	34	6 (18%)	7 (21%)
All other	61	12 (20%)	26 (43%)
Total	823	395 (48%)	226^c (27%)

^aThe preliminary assessment must have been completed by the agency and approved by EPA by Apr. 17, 1988, to be counted as having met the deadline.

^bTo be counted as having met this deadline, EPA must have made a final decision by Apr. 17, 1989. The decision could have been to list the facility, or not to take any further action under Superfund. A no-further-action decision—removing the facility from the process—can occur at various points in the process.

^cIncludes 35 facilities placed on the NPL by the deadline and 191 facilities that required no further action under Superfund.

Source: GAO analysis of CERCLIS data.

As of July 1992, when we drew data for our analysis and over 3 years after SARA's deadlines, federal agencies had completed most assessments, but EPA had not finished evaluating facilities on the original docket. As shown in table 2.2, preliminary assessments had been accepted as complete by EPA for all but 14 facilities. This progress was due, in large part, to the pressure of a court order and concern about additional litigation.¹ For example, in the 18 months following the court order, EPA completed assessments of 218 additional facilities, almost 3 times its former pace. EPA officials told us that the 14 remaining preliminary assessments were still not finished as of March 1993.

Table 2.2 also shows that as of July 1992, 346 facilities still needed a site inspection or NPL decision. Among the facilities for which EPA has made a

¹EPA was sued by the Conservation Law Foundation over the missed SARA deadlines. Under the terms of a U.S. district court order issued on Jan. 15, 1991, EPA was required to meet new deadlines for assessing and evaluating the originally docketed facilities. See ch. 3 for more details.

decision, 363 facilities, or 79 percent, were not contaminated enough to be cleaned up under Superfund—these facilities would typically be cleaned up under other EPA, agency, or state programs; and 96 federal facilities were placed on the NPL for Superfund cleanup. Between July 1992 and December 1992, EPA reported that decisions were made for an additional 35 facilities.

Table 2.2: Status of Assessment of and NPL Decisions on the 823 Federal Facilities on Original Docket, as of July 1992

Agency	Facilities on docket	Facilities still in process		Facilities fully processed	
		Facilities not assessed ^a	Facilities assessed but needing evaluation	Facilities removed from further NPL consideration	Facilities on the NPL
Agriculture	11	0	3	7	1
Air Force	107	1	61	16	29
Army	130	1	65	36	28
Navy	174	4	99	48	23
Other Defense	30	0	8	19	3
Energy	34	0	14	9	11
Interior	231	3	67	158	3
NASA	11	0	7	3	1
Transportation	34	2	12	19	1
All other	61	3	10	48	0
Total	823	14	346	363	100^b

^aThe preliminary assessment must have been completed by the agency and approved by EPA to be counted as complete.

^bThere are actually 96 federal facilities from the original docket on the NPL. Four of the 100 federal facilities—one each for Agriculture, Army, Energy, and the Interior—went through the assessment and listing process but were later placed on the NPL as private sector facilities.

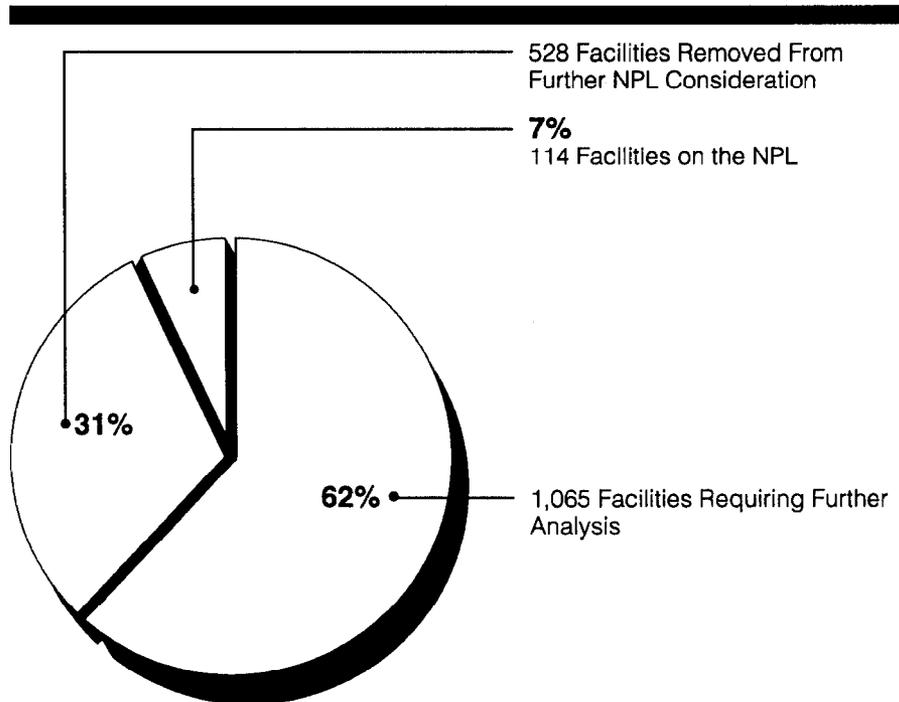
Source: GAO analysis of CERCLIS data.

EPA Falling Behind on Evaluations

Even though many facilities on the original docket have not yet been fully evaluated, the docket continues to grow, more than doubling in size since the first one was published in 1988. As shown in figure 2.1, EPA has built up a substantial backlog of facilities needing further analysis. If EPA continues to place facilities on the NPL at its current average pace of 12 per year, it will take more than a decade, possibly much more than a decade, to make NPL decisions on the 1,065 facilities requiring further analysis, as of July 1992. Moreover, the docket will continue to grow as federal agencies

report additional facilities to EPA. For instance, in February 1993, after we had completed our analysis, EPA published its seventh docket update, bringing the total number of federal facilities to 1,930.

Figure 2.1: Status of the 1,707 Facilities on the Docket, as of July 1992



Note: The 114 docketed facilities were entered on the NPL as 123 sites because they were subdivided for cleanup. Of the 1,065 facilities requiring further evaluation, 537 facilities still need preliminary assessments and 528 have been assessed but need further evaluation or NPL decisions.

Source: GAO analysis of CERCLIS data.

Table 2.3 shows that 1,170 of the facilities on the docket as of July 1992 have had preliminary assessments. Of these 1,170 facilities, EPA has evaluated and made NPL decisions on 642—a little more than half—placing 114 facilities on the NPL and removing 528 facilities from further NPL consideration. The table also shows that as the docket continues to grow, EPA and other federal agencies are falling behind in completing facility assessments and evaluations.

**Chapter 2
EPA Did Not Meet SARA Deadlines for
Facility Evaluations**

Table 2.3: Status of Assessments and Evaluations Completed, by Federal Facility Docket Additions, as of July 1992

Docket by date published in the Federal Register	Total facilities on the docket	Number of facilities assessed (percent of those on docket)	Number of facilities fully evaluated^a
Original docket (2/12/88)	823	809 (98%)	463
1st update (11/16/88)	268	175 (65%)	92
2nd update (12/15/89)	113	48 (43%)	27
3rd update (8/22/90)	45	17 (38%)	9
4th update (9/27/91)	252	65 (26%)	26
5th update (12/12/91)	139	50 (36%)	21
6th update (7/17/92)	67	6 (9%)	4
Total	1,707	1,170 (69%)	642

Note: The shaded areas represent facilities for which assessments and evaluations were not due as of July 1992.

^aIncludes 114 facilities placed on the NPL and 528 facilities removed from further NPL consideration.

Source: GAO analysis of CERCLIS data.

Expected Growth of the Federal NPL

It is not possible to estimate with any certainty the number of federal facilities that EPA will eventually include on the NPL. Estimates of the number of currently docketed sites that will be listed vary, depending on what assumptions are used in making the estimates. For example, if EPA assumes that it will continue to list docketed facilities at its current rate of about 19 percent of all federal facilities identified, about 200 of the 1,065 unevaluated facilities on the docket, as of July 1992, could be added to the NPL.² This would bring the total number of federal facilities on the NPL to over 300, from the docket. However, EPA is uncertain whether this past experience will continue because it does not know the level of contamination at the unevaluated facilities.

Because the universe of facilities that will have to be evaluated is incomplete, EPA is significantly limited in its ability to estimate how many facilities it will ultimately list. Some agencies, such as the Department of

²The current rate may underestimate the future rate since sites are determined not to need Superfund cleanups sooner than they are determined to require it.

the Interior's Bureau of Land Management, the Department of Transportation's Federal Aviation Administration, and the U.S. Department of Agriculture's (USDA) Forest Service, have not completed their inventories of potentially hazardous facilities. Other agencies, such as USDA's Farmer's Home Administration, have not fully reported their inventories to EPA. EPA officials believe that ultimately a total of 400 to 500 federal facilities may be listed on the NPL once the docket is complete and all facilities have been assessed.

Agency Comments and Our Evaluation

EPA's comments did not substantially address the findings in this chapter. The other federal agencies generally expressed concern over whether readers of the report would understand that when a facility is shown as not having been assessed (as in table 2.1), the responsible federal agency may have completed the assessment, but EPA may not have finished reviewing it. EPA, on the other hand, said that frequently delays in approval occur because there are problems with the quality of the assessments that agencies submit. The available data did not provide sufficient detail for us to attribute responsibility for delays to late submission of assessments by agencies or to late reviews of these assessments by EPA.

EPA and Other Agencies Did Not Consider SARA Deadlines a High Priority

Until 1991, EPA did not place a high priority on assessing and evaluating federal facilities for inclusion on the NPL. EPA had determined in 1987 that it did not have sufficient resources to address the SARA mandates for both federal facilities and nonfederal sites. EPA set limited goals for assessing federal sites and did not work with the other federal agencies to respond in a timely manner to the mandates. In addition, EPA did not provide agencies with timely guidance on conducting assessments and was late in reviewing assessments and ranking facilities according to the hazards they posed. Some federal agencies also gave the SARA requirements insufficient attention and provided EPA with late or incomplete facility assessments. As a result, SARA deadlines for evaluation have been missed.

Prompted by a court order and concerns over the prospect of additional litigation, EPA has recently devoted more resources to federal facilities. However, EPA officials said that this effort has taken resources away from other Superfund efforts.

EPA Did Not Make Federal Facilities a High Enough Priority

Resources for evaluating federal facilities come from the same pool that EPA draws on to evaluate nonfederal facilities and to perform other Superfund responsibilities. EPA determined in 1987 that its resources were insufficient to meet the numerous SARA deadlines affecting both federal and nonfederal facilities. EPA decided that there were certain goals that the agency could meet and others that it could not. The federal facilities deadlines were among those that EPA determined it could not meet. EPA could not meet the deadlines because, in part, it did not place a high enough priority on the federal facilities deadlines, devoting insufficient resources to the area and setting low goals for evaluating facilities. In addition, EPA did not provide timely guidance to federal agencies and was often late in reviewing assessments and deciding on NPL facilities.

Delayed Guidance on Federal Facilities

In early 1987, EPA's Hazardous Site Evaluation Division conducted a study of the agency's ability to meet SARA's pre-remedial requirements and timetables. It concluded that EPA could not meet the SARA deadlines for (1) ensuring that all federal agencies conduct preliminary assessments by April 1988 and (2) evaluating and listing on the NPL all appropriate federal facilities by April 1989. In its analysis, EPA also noted that the Hazard Ranking System revisions and the schedule for implementing those revisions would profoundly affect its ability to meet other SARA goals. According to EPA, the study was based on information from fiscal year 1988 and 1989 budget targets, Superfund data, regional and contractor

information, and historical program information. The study also compared work load projections with resources needed and available under various conditions.

EPA did not provide its regional offices with draft instructions for implementing the federal facilities section of SARA until September 8, 1987, 11 months after the law's enactment. Furthermore, in the spring of 1988—which was also the first SARA deadline for federal facilities—EPA contacted its regional offices to find out how they were managing the federal facilities effort. The first deadline had passed, however, before EPA conducted a written survey to determine what efforts the regions had made to ensure that federal agencies completed their assessments.

EPA did not develop guidance needed by the agencies to meet the mandates in a timely manner. Instead, EPA relied on draft guidance that it had provided to EPA regions, its contractors, federal agencies, and states for conducting preliminary assessments and site inspections. EPA did not issue its final assessment guidance until September 1991 and its interim guidance on site inspections until September 1992. National Aeronautics and Space Administration (NASA) headquarters' staff said that the draft guidance provided by EPA did not clearly specify EPA's information requirements for assessing contamination. This lack of specific guidance, officials said, contributed to delays NASA experienced in completing site inspections at several research centers. For example, because it had to wait for final EPA guidance, NASA completed site inspections at the Ames Research Center and at Wallops Flight Facility, about 3 years after the agency had completed the preliminary assessments and initial site inspections.

Lack of EPA Action Caused Rework for Agencies

SARA required that EPA modify its Hazard Ranking System by October 17, 1988, so that to the maximum extent feasible the revised system accurately assessed the relative degree of risk to human health and the environment posed by facilities. SARA also stated that the old Hazard Ranking System should remain in effect until a revised system replaced it. Despite the 1988 deadline, EPA did not publish the revised ranking system in the Federal Register until December 1990 and did not implement it until March 1991.

Most of the agencies we reviewed said that the time it took EPA to implement the revised Hazard Ranking System contributed to delaying many assessments and evaluations of federal facilities. Some federal agencies conducted and submitted preliminary assessments to EPA by the

October 15, 1987, deadline set by EPA for agencies wishing to ensure that their facilities were scored under the original system, but EPA did not evaluate all these facilities before the new system went into effect. Once the revised system was implemented, many assessments had to be redone because of the need to obtain additional information required for scoring under the new system. EPA regional officials sent out many deficiency letters to the agencies requesting additional information for preliminary assessments. For example, at EPA Region 5, 21 of the 58 facilities that submitted assessments were sent deficiency letters requesting additional information.

DOE made an effort to complete and provide assessment information to EPA so that its facilities could be scored under the original ranking system. According to DOE, 12 of its 34 facilities listed on EPA's original docket submitted preliminary assessments by the October 15, 1987, deadline.¹ EPA assessed and evaluated 11 facilities for inclusion on the NPL under the old scoring system. Many of the remaining assessments had to be revised to meet the new system's requirements. As of July 1992, 14 of the 34 DOE facilities were still awaiting EPA's decision on their potential NPL status.

EPA Was Late Reviewing Assessments and Deciding on NPL Facilities

Agency officials complained to us that action on their hazardous waste sites had been slowed by EPA's delays in reviewing preliminary assessments. For example, USDA's Agricultural Research Service and Forest Service have waited more than a year for a response from EPA on 11 preliminary assessments they submitted. In the interim, USDA has continued investigation and cleanup work and anticipates even completing some cleanup before EPA makes listing decisions on its facilities. In a June 1992 letter to EPA, USDA requested a review of its cleanup plans for these facilities. USDA's General Counsel acknowledged that USDA is aware of EPA's resource constraints but expressed concern that EPA's lack of involvement could be problematic if a facility cleaned up by USDA is later listed on the NPL and EPA specifies a cleanup strategy that is different from what was done. If this happened, USDA could have to redo a cleanup, thereby incurring additional expenses.

EPA's Continuing Resource Limitations Impede Progress

EPA acknowledged its problem in the federal facilities area when it cited federal facilities enforcement as a material weakness in its 1991 and 1992 Federal Managers' Financial Integrity Act reports. Although the reports did

¹DOE records also show that DOE submitted preliminary assessments for 32 of the 34 facilities by the Apr. 1988 deadline.

not specifically discuss the assessment and evaluation process, they indicated that EPA had not had sufficient resources to adequately oversee other agencies' environmental compliance and restoration plans and activities. EPA's fiscal year 1992 appropriation more than doubled oversight staff for federal facilities and increased the federal facilities enforcement budget from \$20 million to \$28 million. However, the additional funding was provided primarily for oversight of facilities already on the NPL, rather than for assessment and evaluation activities. Because of pressure to speed up federal facility assessments and evaluations, EPA headquarters asked the regional offices to devote a portion of the additional resources to the federal facilities assessment and evaluation program in fiscal years 1992 and 1993. Officials in EPA's assessment program office said they had requested additional funding in fiscal years 1993 and 1994, but the administrator did not forward the request to the Office of Management and Budget.

At some EPA regional offices, the recent pressure to speed up federal facility assessments has deferred work on nonfederal evaluation activities. For example, at EPA's Region 1, in order to meet the court-ordered deadline for the New England facilities, the region has dedicated all of its assessment and evaluation resources to federal facilities. As a result, the region does not anticipate completing any nonfederal facility evaluations until fiscal year 1995. At EPA Region 9, officials said they had to take staff and funding from other program areas to devote to evaluations of federal facilities—potentially delaying work on nonfederal facilities.

Some Federal Agencies Did Not Make Cleanup a High Priority

The lack of priority attention by EPA with respect to the SARA mandates for federal facilities was compounded by a lack of commitment to hazardous waste cleanup programs in some federal agencies. Some agencies did not place a high priority on identifying and assessing facilities for such reasons as a lack of departmental oversight or competition with the agency's primary mission. Other agencies submitted late or incomplete assessments.

Agencies Did Not Organize for Cleanup

Some agencies have not placed a high priority on identifying and assessing their facilities. For example, a March 1993 report by the Department of the Interior's Office of the Inspector General found that the Department had made unsatisfactory progress in identifying, evaluating, and cleaning up hazardous waste sites on public and Indian trust lands.² The report states

²Management of Hazardous Materials by the Department of the Interior, No. 93-I-873, Mar. 1993.

that Interior's bureaus often did not assign the hazardous materials program a high sense of urgency and that Interior's Office of Environmental Affairs was not able to provide effective leadership because it lacked direct authority over the bureaus. In addition, the Inspector General found that individual bureaus conducted their hazardous waste site inventories and evaluations in an inconsistent and uncoordinated manner, with minimal departmental guidance and with no independent verification of the completeness or accuracy of the results. According to the report, deficiencies in the hazardous materials program occurred because the Department and its bureaus did not assign sufficient priority or resources to identifying and cleaning up contaminated sites.

Reporting on NASA in 1991, we found a lack of guidance and oversight by NASA headquarters and a lack of emphasis on environmental issues by some NASA center directors that resulted in some centers lacking adequate resources, including trained specialists, to carry out environmental programs.³ Since our report, NASA has included management of its environmental program in its Federal Managers' Financial Integrity Act report and is taking steps to make the program a higher priority for the agency.

Some Agencies Submitted Incomplete and Late Assessments

EPA has had to review assessments submitted by federal agencies that, in some cases, were incomplete. For example, EPA Region 9 officials told us that DOD assessments were generated prior to EPA's guidance to satisfy DOD's own evaluation requirements and did not always contain information needed for EPA's scoring purposes.

DOT's Federal Aviation Administration (FAA) also submitted late and incomplete assessments. Preliminary assessments for all five of FAA's originally docketed facilities were submitted after SARA's assessment deadline. Three of these facilities submitted incomplete information almost 5 months after SARA's April 1988 deadline. In September 1989, EPA rejected the assessments because they contained incomplete information to evaluate the facilities for possible inclusion on the NPL. FAA resubmitted the four assessments in 1991 and 1992, attributing the delay to the lateness of and changes in EPA guidance, funding limitations, seasonal delays, and unsatisfactory contractor performance, which required rework. In addition, early drafts of the assessments turned up significant inconsistencies because of lack of real estate records and complex

³Environmental Protection: Solving NASA's Current Problems Requires Agency-wide Emphasis (GAO/NSIAD-91-146, Apr. 5, 1991).

ownership histories involving many other federal, state, and private owners and/or operators. FAA officials said that the agency has since placed a high priority on site cleanups.

Some agencies have not provided facility assessments in a timely manner. SARA required assessments for facilities on the original docket by April 1988, and EPA's policy required that assessments for facilities subsequently added to the docket be completed within 18 months of publication on the docket. We found that 6 of USDA's 11 facilities on the original docket did not submit assessments within SARA's 18-month time frame. USDA reported that the delays resulted because of turnover in the agency's staff, inability to obtain qualified contractors, difficulty in coordinating schedules with the various federal, state, and local regulatory authorities involved, and contractors' failing to meet deadlines.

EPA Has Begun to Address Federal Facilities Cleanup

Prompted by a court order and concerns about additional litigation over missing SARA's deadlines, EPA has now placed a greater priority on assessing and evaluating federal facilities. Under the terms of a U.S. district court order issued on January 15, 1991, EPA was required to assess all of the 823 originally docketed facilities by July 15, 1992.⁴ That order was reversed on appeal and the court's jurisdiction limited to 10 facilities in New England and New York State. Assessments were completed for these 10 facilities by July 15, 1992. By July 15, 1993, EPA must evaluate and, as necessary, list on the NPL the 10 facilities. Despite the appellate court decision, as of February 1993, EPA was processing all the originally docketed facilities as priorities. However, EPA officials acknowledged that they will not be able to complete evaluations for the 823 facilities by July 1993 because they needed more information, for example, to make scoring decisions on over 300 of these facilities. In addition, the EPA officials said the preparation process for a hazard ranking package to score a facility for the NPL takes about a year. Finally, proposed facilities must be published in the Federal Register for public comment, which typically takes 9 months, and could delay the listing of a facility by up to 2 years if comments are received.

In addition, EPA headquarters has recognized the need to increase communication and provide training to federal agencies in order to ensure that they submit adequate data for making an NPL determination. Federal facilities often have great amounts of data that were collected for other

⁴Conservation Law Foundation of New England v. Reilly, 755 F. Supp. 475 (D.Mass. 1991), rev'd, 950 F. 2nd 38.)

purposes. These data can be used for hazard-ranking purposes, provided they are submitted to EPA in a form compatible with its standard facility assessments. Recently, EPA headquarters assessment officials conducted training sessions for federal representatives on how to conduct such assessments.

In response to criticism about the slow cleanup progress in the Superfund program overall, EPA is implementing a number of actions under a program to accelerate cleanups,⁵ including attempts to streamline the site assessment process. As of February 1993, four EPA regions planned to assess potential nonfederal sites to determine if a streamlined assessment phase is feasible for Superfund program needs. The goal is to combine the steps in the current Superfund assessment process—preliminary assessment, site inspection, removal investigation (to determine whether an emergency removal action is needed), remedial investigation, and feasibility study. If this initiative is successful, EPA officials believe it could be applied to assessments of federal facilities as well. However, they cautioned that while the new system may shorten overall study time, it may not speed up the listing process immediately.

Agency Comments and Our Evaluation

EPA commented that it was unaware of any deliberate decision to give a lower priority to federal facilities. EPA attributed delays primarily to the (1) change in the Hazard Ranking System and (2) failure of other federal agencies to submit complete data or data in a usable format. We agree that a number of factors contributed to the delays, and in the final report we have highlighted these factors more clearly. However, we also believe that the evidence is clear that EPA did not place a high enough priority on ensuring the completion of assessments and conducting evaluations of federal facilities to meet the SARA deadlines.

The other federal agencies generally provided technical corrections and additional information regarding references to their programs that appear in this chapter. We have incorporated their comments where appropriate.

⁵The Superfund Accelerated Cleanup Model is intended to speed up and simplify the entire Superfund program.

Conclusions and Recommendations

Conclusions

Despite SARA's emphasis on federal facilities and quick action, EPA and federal agencies have made only limited progress in evaluating federal facilities for inclusion in the Superfund program. As of December 1992—over 3 years after the statutory deadline for making NPL placement decisions for the 823 facilities originally identified—EPA had yet to make determinations for over 300 facilities. In the meantime, the docket has more than doubled in size, creating a substantial backlog of federal facilities needing evaluation. If EPA continues at its current pace, it could take well over a decade to finish evaluating the currently docketed facilities. Moreover, EPA's delay may have caused other federal agencies to delay cleanups pending an EPA decision on inclusion in Superfund. There is also a danger that agencies could proceed with cleanup, at the risk of having to rework their effort after the facility is listed in Superfund. In either case, delays may harm human health and the environment and make cleanup more costly.

Delays in cleanup have occurred primarily because EPA has not treated the deadlines as a high enough priority. As a result, EPA did not focus enough resources on federal facilities to provide timely guidance and review of assessments submitted by other agencies. In addition, EPA and other federal agencies never established a plan for jointly responding to SARA's mandates. Federal agencies contributed to delays by providing EPA with late or incomplete assessments. EPA provided more resources and attention to federal facilities only under court order.

Devoting additional resources to federal facility assessments would help speed up the process. But given current constraints on the federal budget, EPA also needs to emphasize streamlining the Superfund process as a way of expediting cleanups. Streamlined procedures, involving combined assessment phases, are being tested at nonfederal sites; however, these procedures could be applied at federal facilities as well. While the streamlining may not accelerate the listing process, it could speed up overall cleanup time and thus make pre-cleanup delays less significant.

Recommendation

To expedite action on federal facilities and establish accountability for progress on cleanup, we recommend that the Administrator, EPA, in consultation with other federal agencies, develop a Superfund plan to address the backlog of unevaluated federal facilities remaining on the docket. This plan should specify (1) the steps EPA will take to streamline the assessment and evaluation process; (2) a schedule for completing federal facility assessments and adding to the NPL those facilities that pose

the greatest harm; and (3) the level of priority and resources EPA plans to devote to this effort. This plan should be completed in time to be considered by the Congress during the upcoming Superfund reauthorization.

Matter for Congressional Consideration

As part of the upcoming Superfund reauthorization process, the Congress may wish to require EPA and federal agencies to report on the status of their docketed facilities in their annual Superfund reports to the Congress.

Agency Comments and Our Evaluation

EPA did not expressly agree or disagree with our recommendation. The agency noted that implementation of the recommendation would require a change in priorities and/or additional resources, especially if EPA were to prepare a plan by the time the Congress considers Superfund reauthorization. EPA also noted that its plans to streamline the Superfund process may not result in speeding up the assessment and evaluation process. EPA said that the most likely approach to reducing the backlog is to assign resources to federal facility evaluations from nonfederal evaluations. We agree with EPA that a change in priorities would be in order if the federal facilities backlog is to be reduced and that more resources would be useful in reducing the backlog. However, given the limited resources available to meet EPA's overall responsibilities, we believe that the most likely approach is for the agency to look toward ways to make its current process less cumbersome and resource-intensive.

The other federal agencies suggested minor wording changes on the matter for congressional consideration. We agreed and have made the changes.

Comments From the Environmental Protection Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 4 1993

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

Mr. Richard L. Hembra
Director
Environmental Protection Issues
Resources, Community, and Economic Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Hembra:

As requested in your letter of April 1, 1993, I am transmitting to you the Agency response to the General Accounting Office's (GAO) draft report entitled Superfund: Backlog of Unevaluated Federal Facilities Slows Cleanup Efforts (GAO/RCED-93-119). On the whole, we found that the report is an accurate portrayal of the issues involved with the listing and evaluation of Federal facilities' hazardous waste sites. The Agency is also providing, under separate cover, the Office of General Counsel's comments written directly on the draft report.

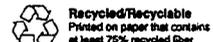
See comment 1.

In several instances, the report implies that EPA has a duty to conduct a National Priorities List (NPL) evaluation for every facility on the docket. This implication runs contrary to the Superfund Amendments and Reauthorization Act (SARA) section 120(d) that requires the Administrator to evaluate facilities for inclusion on the NPL only "where appropriate." We note that a Federal district court reached a different conclusion. (See Conservation Law Foundation of New England v. Reilly, 755 F. Supp. 475 (D. Mass. 1991), reversed on other grounds, 950 F.2d 38.)

See comment 2.

The GAO report notes that EPA's conscious decision to give lower priority to Federal facilities is responsible for delays in listing of sites. We are unaware of any such decision, and believe, instead, that the delay is attributed primarily to other factors cited in the report, namely:

- the change in the Hazard Ranking System (HRS); and
- the failure of agencies to submit complete data or data in a usable format.



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See comment 3.

The report indicates that delays may result in expensive rework at sites if agencies proceed with remedial action before the site is listed and addressed more formally under section 120(e). This is a theoretical possibility; however, this has not occurred to date. It might be more accurate to indicate that this is a theoretical possibility, but not one that has occurred thus far.

See comment 4.

The report recommends to the Administrator that, in consultation with other Federal agencies, EPA develop a Superfund plan to address the backlog of unevaluated Federal facilities. Implementation of the recommendation would require a change in priorities and/or additional resources, especially if EPA were to prepare a plan by the time Congress considers Superfund reauthorization, as the report recommends.

See comment 5.

The report, on page 3 of the Executive Summary and on page 9, improperly implies that the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) limits the use of Superfund monies to sites on the NPL. It is not CERCLA, but the National Contingency Plan (NCP) that, as a matter of Agency discretion, limits fund use for remedial actions only to NPL sites.

See comment 6.

On page 4, the report states that EPA cannot complete listing decisions by July 1993. EPA has never committed to completing listing decisions by July 1993.

See comment 7.

The report on page 4 states that, under SARA, EPA was required to ensure that Federal facilities completed preliminary assessments for the 823 facilities on the Federal Hazardous Waste Compliance Docket. According to the language of section 120(d), the Administrator is not required to ensure that Federal facilities complete preliminary assessments, but rather "shall take steps to assure that a preliminary assessment is conducted for each facility on the docket." In other words, the Administrator's duty was, by April 1988, to reasonably facilitate completion of the preliminary assessments, not to guarantee that the other agencies would complete them by that date. In fact, EPA believes that it did take the required steps. We note, however, that a Federal district court reached a different conclusion. (See Conservation Law Foundation of New England v. Reilly, 755 F. Supp. 475 (D. Mass. 1991) reversed on other grounds, 950 F2d 38 (1st Cir. 1991)).

See comment 8.

EPA is concerned with the report's suggestion that EPA rely on the Superfund Accelerated Cleanup Model (SACM) to reduce the backlog (page 39, last paragraph before recommendations). SACM will not necessarily result in speeding up the listing process immediately, although this may take place over time. Further, in

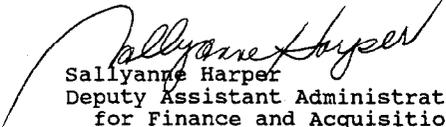
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certain instances, it may slow down the listing process (as when the expanded site inspection and remedial investigation are combined) while speeding up the overall time from site identification to cleanup. The most likely approach to reducing the backlog will be to assign resources to Federal facility evaluations from non-Federal evaluations.

I appreciate your consideration of these comments while preparing the final report. I look forward to receiving it.

Sincerely,


Sallyanne Harper
Deputy Assistant Administrator
for Finance and Acquisition

The following are GAO's comments on the Environmental Protection Agency's letter dated May 4, 1993.

GAO Comments

1. The draft report provided to the Environmental Protection Agency (EPA) and this final report point out several times that successive steps in the assessment and evaluation process are only conducted if warranted by the results of the initial assessment (see ch. 1).
2. The final report was clarified to acknowledge more clearly the number of factors that contributed to the delays. However, we believe that the evidence is clear that EPA did not give federal facility evaluations the attention needed to meet the Superfund Amendments and Reauthorization Act (SARA) mandates (see ch. 3).
3. In response to this comment, we have reemphasized that additional costs are contingent on agencies' moving forward with cleanup without EPA concurrence (see ch. 4).
4. We concur with EPA that the agency would need to change its priorities or add resources to implement our recommendation.
5. The revised language in the final report does not imply that the Comprehensive Environmental Response, Compensation, and Liability Act limits the use of Superfund monies to sites on the National Priorities List (see ch. 1).
6. We deleted the sentence referred to in this comment (see the executive summary).
7. The final report indicated that SARA required EPA to take steps to ensure that federal agencies completed preliminary assessments (see the executive summary).
8. We agree with EPA that more resources would be useful in helping to reduce the backlog. However, given the limited resources available to meet EPA's overall responsibilities, we believe that the agency should also look toward ways to make its current process less cumbersome and resource-intensive. We have clarified the final report to reflect that while these changes may speed up the entire process, they may not speed up the assessment and evaluation process (see ch. 4).

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