



United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-277797

September 24, 1997

The Honorable Bud Shuster
Chairman, Committee on Transportation
and Infrastructure
House of Representatives

Subject: Superfund: Duration of the Cleanup Process at
Hazardous Waste Sites on the National Priorities List

Dear Mr. Chairman:

In congressional testimony in February 1997¹ and in a March 1997 report,² we discussed the time that the Environmental Protection Agency (EPA) took to complete the cleanup of hazardous waste sites in its Superfund program. We said that the cleanup of sites completed in fiscal year 1996 had taken an average of 10.6 years. We also said that the length of time to complete cleanups at sites had increased over the history of the program. In responding to our report, EPA said that our analysis did not reflect recent improvements in the Superfund program, which, it said, were speeding up the pace of cleanups. EPA presented data showing that some sites that were recently added to the National Priorities List (NPL) had been cleaned up in less time than that for earlier sites.³ Moreover, EPA said that it expected that the sites listed in 1993 through 1996 would be cleaned up in an average of 8 years.

¹*Superfund: Times to Assess and Clean Up Hazardous Waste Sites Exceed Program Goals* (GAO/T-RCED-97-69, Feb. 13, 1997). Testimony before the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, House Committee on Government Reform and Oversight.

²*Superfund: Times to Complete the Assessment and Cleanup of Hazardous Waste Sites* (GAO/RCED-97-20, Mar. 31, 1997).

³We believe that the completed sites referred to by EPA are too small a segment of the recently listed sites to reliably indicate how long the cleanup of recently listed sites will take, on average. The great majority of recently listed sites are still in the cleanup process.

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You asked us to compare EPA's estimate of future cleanup times with the program's historical performance. We did this by calculating, for the sites that began the cleanup process in fiscal years 1986 through 1994, (1) how long it took to clean up completed sites and (2) how long the uncompleted sites have been in the cleanup process.

BACKGROUND

In 1980, the Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act, known as Superfund, to clean up highly contaminated hazardous waste sites. EPA places the sites that qualify for long-term Superfund cleanup action on the NPL. As of November 1996, 1,205 sites were on the NPL.

Once listed on the NPL, a Superfund site may be divided into "operable units" corresponding to different physical areas at the site or different environmental media (such as soil or groundwater) to be cleaned up. Sites (or operable units, if a site is subdivided) pass through various processing phases that include studies of the sites' risks, the selection and design of cleanup remedies, and the implementation of the cleanup remedies. This last phase is called "remedial action." Some sites may complete remedial action faster than others, and still others may not reach remedial action at all. The calculation of the duration of the cleanup process from a site's listing on the NPL through remedial action is straightforward for any given site. However, until all sites have completed remedial action, the average length of time needed to complete remedial action for the NPL's entire inventory will be uncertain. EPA has estimated that the cleanup durations for sites listed in 1993 through 1996 will average 8 years.

RESULTS IN BRIEF

As of July 1, 1997, remedial action had been completed at 13 percent (95) of the 752 sites placed on the National Priorities List⁴ in fiscal years 1986 through 1994. These remedial actions were completed in an average of 6.3 years after the sites were listed. As of the same date, remedial action had not been completed at 87 percent (657) of the sites listed in fiscal years 1986 through 1994. These uncompleted sites had been in the cleanup process an average of 8.1 years, that is, they had been listed on the National Priorities List an average of 8.1 years earlier. Assuming that all remedial actions at these "in process" sites had been completed on July 1, 1997, the average cleanup duration for all sites listed on the National Priorities List during the 9-year period would have

⁴At all operable units.

been 7.9 years,⁵ almost as long as EPA's 8-year estimate of the cleanup time for recently listed sites. But because such a large proportion of the sites listed in the 9-year period are still in process, the average cleanup time for these sites will exceed 8 years, possibly by a substantial margin. Furthermore, for EPA to meet its 8-year estimate for cleaning up recently listed sites will require much faster cleanup times than the program has produced in the past.

CLEANUP ACTIVITIES HAVE ALREADY TAKEN ALMOST 8 YEARS

In order to calculate the duration of the Superfund process—from a site's listing on the NPL to its completion of remedial action—for the sites listed in fiscal years 1986 through 1994, we allocated the sites into two groups according to their cleanup status as of July 1, 1997. The first group contains those sites whose entire set of operable units has completed remedial action. For these sites, we calculated duration from the date of the site's listing to the date of the completion of the last remedial action at the site's operable units.

Approximately 13 percent (95 of 752) of the sites listed in fiscal years 1986 through 1994 were in this group. The second group contains the 87 percent (657 of 752) of the sites listed in fiscal years 1986 through 1994 where not all operating units have completed remedial action. (See table 1.)

⁵Represents the weighted average of cleanup times for completed sites and processing times for uncompleted sites.

Table 1: Average Durations for (1) Completed Sites From Listing to Completion of Remedial Action and (2) Uncompleted Sites From Listing to July 1, 1997, by Fiscal Year of Listing

Fiscal year of listing	Sites where remedial action has been completed		Sites where remedial action has not been completed	
	Number	Average duration in years ^a	Number	Average duration in years ^b
1986	32	7.7	138	11.1
1987	17	6.8	82	9.9
1988	0	-	0	-
1989	11	6.5	89	8.3
1990	34	4.7	266	7.3
1991	1	0.1	6	6.3
1992	0	-	0	-
1993	0	-	33	4.7
1994	0	-	43	3.1
Total	95	6.3	657	8.1

^aRepresents time from listing on the NPL to the completion of remedial action at all operable units.

^bRepresents processing time from listing on the NPL to July 1, 1997, for sites where remedial actions had not been completed at all operable units.

For the 95 sites where remedial action has been completed, the average duration from listing to completion was 6.3 years. These 95 sites contained 115 operable units, all of which have completed remedial action. The 657 sites that have at least one operable unit that has not completed remedial action had already been in the Superfund process for an average of 8.1 years as of July 1, 1997. Combining the weighted average durations for these two groups shows the average time taken so far on cleanup activities—a combined duration of 7.9 years. Because of the amount of remaining cleanup work, the actual average cleanup time can only exceed this combined average. For example, only 1 of the 82 sites listed since fiscal year 1991 has been cleaned up, and 138 of the 170 sites listed in fiscal 1986 have not yet been cleaned up.

SCOPE AND METHODOLOGY

Our analysis was based on data supplied by EPA showing the cleanup status for all sites listed on the NPL in fiscal years 1986 through 1994. The data came from the Comprehensive Environmental Response, Compensation, and Liability Information System—EPA's primary database for the Superfund program. These data showed the sites that had completed remedial action as of July 1, 1997, and the processing stage of sites where remedial actions had not been completed. We chose the fiscal year 1986-94 period for our analysis because the last major legislative changes were made to the program in fiscal 1986 and because few cleanups would have been completed on the sites listed after fiscal 1994.

We performed our work from June 1997 through September 1997 in accordance with generally accepted government auditing standards. We did not verify the accuracy of the data EPA sent to us. However, the database came from EPA's Office of Emergency and Remedial Response, which is responsible for Superfund cleanups.

AGENCY COMMENTS

We provided EPA with copies of a draft of this report for review and comment. EPA maintains that cleanup time frames are and will be decreasing because recent policy decisions will shorten the cleanup times for sites that were listed more recently. EPA noted that our study ended in fiscal year 1994, reflecting only the first year that the current reforms were implemented. EPA expressed concern that our report does not focus on the recent improvements in the time taken to clean up Superfund sites in comparison with the time taken to clean up the sites listed in the early years of the program. EPA also noted that insufficient time had passed to assess the impact of all of the current program reforms and that anecdotal information will be the best available data for the next 3 to 5 years. EPA's comments appear in enclosure I.

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Our objective was to estimate the cleanup times for all sites listed during the 9-year period, fiscal years 1986 through 1994, so that we could calculate (1) how long it took to clean up the completed sites and (2) how long the uncompleted sites have been in the cleanup process. Examining the impact of EPA's recent reforms was not within the scope of this review. Regarding EPA's concern that our analysis attempts to project future trends, we are not making such projections; rather, our report presents the minimum average time—8 years—that it would take for all sites currently in the inventory to be cleaned up.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 15 days after the date of this letter. At that time, we will send copies to the Administrator of EPA. We will also make copies available to others on request.

Please call me at (202) 512-6111 if you or your staff have any questions about this report. Major contributors to this report were Alice Feldesman and Mitchell Karpman.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Peter F. Guerrero', with a long horizontal flourish extending to the right.

Peter F. Guerrero
Director, Environmental
Protection Issues

Enclosure

COMMENTS FROM THE ENVIRONMENTAL PROTECTION AGENCY

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

SEP 17 1997

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Peter F. Guerrero
Director
Environmental Protection Issues
U.S. General Accounting Office
Washington, DC 20548

Dear Mr. Guerrero:

Thank you for the opportunity to review and comment on the Draft Report entitled "Superfund: Duration of the Cleanup Process at Hazardous Waste Sites on the National Priorities List (GAO/RCED-97-238R) and the Draft Fact Sheet "EPA's Fiscal Year 1998 Superfund Budget." This letter formally transmits our comments on these draft documents.

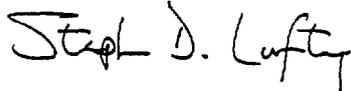
EPA has shown improvements in the time required to cleanup Superfund sites as reflected in the fact that more sites have been completed in the past four years than were completed in the first twelve years of the program. Our reform efforts have been key to this success. However, as demonstrated in our attached comments, we are concerned that not enough time has passed to see the results of all of our reforms in a statistically significant way in terms of average time savings or cost. However, we feel the anecdotal results demonstrated in the FY 1996 Superfund Administrative Reforms Annual Report are good measures of the success of our reform efforts. In addition, we have provided a chart which demonstrates a trend toward reduced durations. We feel this is an analysis which appropriately depicts programmatic trends.

EPA's discussions with GAO on the FY 1998 President's Budget request took place during the same time period that significant data gathering for several Congressional offices was underway. Our projection methods estimated an incremental need of approximately \$650 million in FY 1998 to address the site backlog and accelerate cleanup in the Superfund program. The results of our more current site-by-site analysis have demonstrated that our budget projections were sound and validated our need for the incremental funding. It is my understanding that your office has received this updated site specific information which supersedes the resource estimates made over a year ago and which should be the foundation for validating our FY 1998 budget request.

Again, we thank you for the opportunity to review these draft documents and hope our comments will be strongly considered as the report and fact sheet are finalized. Should you have

- 2 -

any questions or concerns regarding these comments, please contact Robin Richardson at (703)603-8912.



Stephen D. Luftig
Director
Office of Emergency and Remedial Response

Enclosures

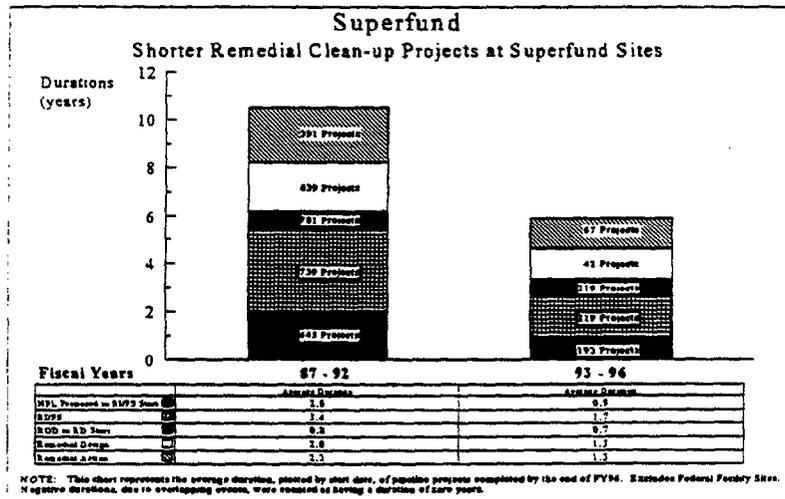
- cc: Timothy Fields, Jr.
- Steven A. Herman
- Sallyanne Harper
- Cliff Rothenstein
- Barry Breen
- Steve Tiber

U.S. EPA Comments

SUPERFUND: DURATION OF THE CLEANUP PROCESS AT HAZARDOUS WASTE SITES ON THE NATIONAL PRIORITIES LIST (GAO/RCED-97-238R, Job Code 160398)

EPA estimates that cleanup timeframes are and will be decreasing as more sites are cleaned up under the administrative reforms. However, the draft GAO report suggests that the time necessary to complete site cleanup will exceed current EPA projections. GAO's study ends in the 1994 fiscal year, reflecting only the first year of the current reforms implementation. Our comments to GAO's previous (March 1997) noted that insufficient time had passed to see all of the quantifiable and statistically significant changes in durations attributable to the three rounds of administrative reforms. EPA remains concerned with the draft findings in the current report because, lacking this durations data, it is not possible to adequately validate the impacts of all of the very important improvements in the Superfund cleanup process. Anecdotal information will be the best available data for the next 3-5 years. Our concerns arise because this analysis attempts to project future trends based on a universe of data which highlights earlier decision processes.

EPA recommends utilizing the program guidance on durations cited by GAO in the March report on durations and reviewing individual pipeline milestone durations based on the start date of the activity in order to reflect the policies in place at the time the activity began. Below is a chart which displays the individual milestone durations for each discrete pipeline activity, demonstrating program trends in more detail than the current GAO report. Again, based on these individual cleanup event durations, EPA estimates that cleanup timeframes are and will be decreasing as more sites are cleaned up under the administrative reforms.



The truest current measures of durations success can be seen in the site-specific examples presented in the FY 1996 Superfund Administrative Reforms Annual Report. Additionally, the Superfund Reforms Project report displays the reductions in time and cost which have been realized through the reforms. These reports show real reductions in the time to achieve cleanup at many Superfund sites.

(160398)

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11-153 Safe Streets Anti-Prostitution Legislative Review Emergency Amendment Act of 1995	November 9, 1995
11-154 Budget Support Legislative Review Emergency Act of 1995	November 9, 1995
11-161 Establishment of the John A. Wilson Building Foundation Emergency Act of 1995	November 27, 1995
11-162 Acquisition of Space Needs For District Government Officers and Employees Emergency Amendment Act of 1995	November 27, 1995
11-167 Department of Corrections Employee Mandatory Drug and Alcohol Testing Emergency Act of 1995	November 28, 1995
Total	76

(901694)

11-125 Council Contract Approval Emergency Amendment Act of 1995	July 28, 1995
11-133 Safe Streets Anti-Prostitution Emergency Amendment Act of 1995	August 11, 1995
11-137 Budget Support Emergency Act of 1995	August 14, 1995
11-138 Rental of Public Structures in Public Space Emergency Act of 1995	August 15, 1995
11-140 415 12th Street, N.W., Lease Conditional Approval Emergency Act of 1995	September 29, 1995
11-141 800 Ninth Street, S.W., Lease Approval Emergency Act of 1995	October 6, 1995
11-142 Closing of a Portion of G Street, N.W., and a Portion of a Public Alley in Square 454, S.O. 95-1, Emergency Act of 1995	October 12, 1995
11-143 Rental of Public Structures in Public Space Congressional Review Emergency Act of 1995	October 23, 1995
11-144 Solid Waste Facility Permit Emergency Act of 1995	October 23, 1995
11-145 Community Development Corporations Money Lender License Exemption Emergency Amendment Act of 1995	October 23, 1995
11-148 Real Property Tax Rates for Tax Year 1996 Emergency Amendment Act of 1995	October 26, 1995
11-149 Council Contract Approval Modification Emergency Amendment Act of 1995	October 27, 1995
11-151 Health Services Planning and Certificate of Need Program Emergency Act of 1995	November 9, 1995
11-152 Interference with Medical Facilities and Health Professionals Congressional Review Emergency Act of 1995	November 9, 1995

11-103 Reorganization No. 2 of 1995 to Transfer to the Mayor Certain Discretionary Authority Vested in the Department of Human Services Emergency Act of 1995	July 21, 1995
11-104 Human Services Spending Reduction Congressional Recess Emergency Amendment Act of 1995	July 21, 1995
11-105 Emergency Assistance Clarification Congressional Recess Emergency Amendment Act of 1995	July 21, 1995
11-106 Budget Implementation Exemption Congressional Recess Emergency Amendment Act of 1995	July 21, 1995
11-116 Metropolitan Police Department Exemption Emergency Amendment Act of 1995	July 25, 1995
11-117 Interference with Medical Facilities and Health Professionals and Reestablishment of Health Services Planning and Certificate of Need Program Emergency Act of 1995	July 25, 1995
11-118 Real Property Tax Reclassification Emergency Amendment Act of 1995	July 25, 1995
11-121 Equitable Relief for Vendors Emergency Act of 1995	July 27, 1995
11-122 Campaign Finance Reform and Conflict of Interest Clarification Emergency Amendment Act of 1995	July 27, 1995
11-123 Arena Tax Payment and Use Congressional Review Emergency Amendment Act of 1995	July 27, 1995
11-124 Omnibus Budget Support Congressional Review Emergency Act of 1995	July 27, 1995

11-78 Vending Site Lottery and Assignment Amendment Emergency Act of 1995	June 28, 1995
11-79 Probate Reform Act of 1994 Emergency Amendment Act of 1995	June 28, 1995
11-80 Unemployment Compensation Public School Employees Emergency Amendment Act of 1995	June 28, 1995
11-84 Vendor Payment Emergency Act of 1995	June 30, 1995
11-86 Juvenile Curfew Emergency Act of 1995	July 6, 1995
11-87 HIV Testing of Certain Criminal Offenders Emergency Act of 1995	July 6, 1995
11-96 Rental Housing Conversion and Sale Act of 1980 Reenactment and Amendment Congressional Recess Emergency Act of 1995	July 19, 1995
11-97 Insurance Omnibus Congressional Recess Emergency Amendment Act of 1995	July 19, 1995
11-98 Pennsylvania Avenue Development Area Parks and Plaza Public Safety Congressional Recess Emergency Amendment Act of 1995	July 19, 1995
11-99 Industrial Revenue Bond Forward Commitment Program Authorization Congressional Recess Emergency Act of 1995	July 19, 1995
11-100 Reorganization Plan No. 1 of 1995 for the Department of Human Services and Department of Corrections Emergency Act of 1995	July 21, 1995
11-101 Extension of the Moratorium on Retail Service Station Conversions Emergency Amendment Act of 1995	July 21, 1995
11-102 Omnibus Sports Consolidation Act of 1994 Emergency Amendment Act of 1995	July 21, 1995

11-48 Insurance Omnibus Emergency Amendment Act of 1995	May 15, 1995
11-49 Industrial Revenue Bond Forward Commitment Program Authorization Emergency Act of 1995	May 15, 1995
11-50 Pennsylvania Avenue Development Area Parks and Plaza Public Safety Emergency Amendment Act of 1995	May 15, 1995
11-57 Arena Tax Payment Emergency Amendment Act of 1995	May 18, 1995
11-58 Prohibition on the Transfer of Firearms Emergency Act of 1995	May 18, 1995
11-60 Extension of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1992 Congressional Review Emergency Amendment Act of 1995	June 13, 1995
11-61 District of Columbia Campaign Finance Reform and Conflict of Interest Emergency Amendment Act of 1995	June 13, 1995
11-62 District of Columbia Board of Education Fees for Adult, Community, and Continuing Education Courses Emergency Amendment Act of 1995	June 16, 1995
11-65 Public Safety Budget Support Emergency Amendment Act of 1995	June 19, 1995
11-66 Prevention of Transmission of the Human Immunodeficiency Virus Amendment Act of 1992 Emergency Amendment Act of 1995	June 19, 1995
11-75 Child Support Enforcement Emergency Amendment Act of 1995	June 19, 1995

11-15 Financial Accountability and Management Act Budget Submission Date Emergency Amendment Act of 1995	February 28, 1995
11-20 Recreation Emergency Act of 1995	February 28, 1995
11-25 Advisory Neighborhood Commission Special Election Emergency Amendment Act of 1995	March 6, 1995
11-29 Budget Implementation Emergency Act of 1995	March 15, 1995
11-30 Extension of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1992 Emergency Amendment Act of 1995	March 15, 1995
11-33 District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974 Emergency Amendment Act of 1995	March 22, 1995
11-35 Human Services Spending Reduction Emergency Amendment Act of 1995	April 11, 1995
11-36 Emergency Assistance Clarification Emergency Amendment Act of 1995	April 11, 1995
11-37 Budget Implementation Exemption Emergency Amendment Act of 1995	April 11, 1995
11-42 Toll Telecommunication Emergency Amendment Act of 1995	April 17, 1995
11-43 Merit Personnel Early Out Retirement Revisions Emergency Amendment Act of 1995	April 17, 1995
11-44 Omnibus Budget Support Emergency Act of 1995	April 28, 1995
11-47 Rental Housing Conversion and Sale Act of 1980 Reenactment and Amendment Emergency Act of 1995	May 4, 1995

Table I.2: Emergency Legislation Passed by the Council of the District of Columbia—January, 1995 to November, 1995

Act	Effective Date
11-1 Early Intervention Services Sliding Fee Scale Establishment Congressional Adjournment Emergency Act of 1995	January 18, 1995
11-2 Day Care Policy Congressional Adjournment Emergency Amendment Act of 1995	January 18, 1995
11-3 Prevention of the Spread of the Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome Congressional Adjournment Emergency Amendment Act of 1995	January 18, 1995
11-4 Child Support Enforcement Congressional Adjournment Emergency Amendment Act of 1995	January 19, 1995
11-5 Armory Board Interim Authority Congressional Adjournment Emergency Amendment Act of 1995	January 19, 1995
11-6 Medicaid Benefits Protection Congressional Adjournment Emergency Act of 1995	February 8, 1995
11-7 District Employee Benefits Free Clinic Extension Congressional Adjournment Emergency Amendment Act of 1995	February 8, 1995
11-13 Budget Spending Reduction Congressional Adjournment Emergency Amendment Act of 1995	February 28, 1995
11-14 Homestead Deduction Limitation Applicability Date Emergency Amendment Act of 1995	February 28, 1995

ENCLOSURE

ENCLOSURE

10-372 D.C. Resident Tax Credit Emergency Amendment Act of 1994	December 27, 1994
10-384 Solid Waste Facility Permit Emergency Act of 1994	December 28, 1994
10-389 Multiyear Budget Spending Reduction and Support Emergency Act of 1994	December 29, 1994
Total	62

10-322 Child Support Enforcement Emergency Amendment Act of 1994	August 4, 1994
10-324 Cost of Living Adjustment Extension for Public Safety Personnel Emergency Amendment Act of 1994	August 18, 1994
10-325 Armory Board Interim Authority Emergency Amendment Act of 1994	October 14, 1994
10-326 Public Assistance and Day Care Policy Emergency Amendment Act of 1994	October 21, 1994
10-327 Prevention of the Spread of the Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome Emergency Amendment Act of 1994	October 21, 1994
10-328 Child Support Enforcement Congressional Adjournment Emergency Amendment Act of 1994	October 21, 1994
10-329 Early Intervention Services Sliding Fee Scale Establishment Congressional Adjournment Emergency Act of 1994	October 21, 1994
10-330 Day Care Policy Congressional Adjournment Emergency Amendment Act of 1994	October 21, 1994
10-339 Budget Spending Reduction Emergency Amendment Act of 1994	November 22, 1994
10-362 District of Columbia Board of Education Sale, Renovation, Lease-back, and Repurchase of Franklin School Congressional Adjournment Emergency Amendment Act of 1994	December 15, 1994
10-363 Commercial Piracy Protection Emergency Amendment Act of 1994	December 15, 1994
10-366 Second Tax Revenue Anticipation Notes Emergency Act of 1994	December 22, 1994

10-284 Lie Detector Tests for Pre-Employment Investigations Emergency Amendment Act of 1994	July 8, 1994
10-285 Rental Housing Conversion and Sale Act of 1980 Reenactment and Amendment Emergency Act of 1994	July 8, 1994
10-287 District of Columbia Comprehensive Plan Act of 1984 Land Use Element Emergency Amendment Act of 1994	July 22, 1994
10-288 Prevention of Child Neglect Emergency Amendment Act of 1994	July 22, 1994
10-297 Youth Initiatives Emergency Act of 1994	July 25, 1994
10-298 Police Truancy Enforcement. Emergency Amendment Act of 1994	July 25, 1994
10-299 District of Columbia Board of Education Fees for Select Adult, Community, and Continuing Education Courses Emergency Act of 1994	July 25, 1994
10-300 Comprehensive Merit Personnel Reemployed Annuitant Emergency Amendment Act of 1994	July 25, 1994
10-311 American Architectural Foundation Congressional Review Emergency Amendment Act of 1994	July 26, 1994
10-319 Day Care Policy Emergency Amendment Act of 1994	August 4, 1994
10-320 Early Intervention Services Sliding Fee Scale Establishment Emergency Act of 1994	August 4, 1994
10-321 District of Columbia Board of Education Sale, Renovation, Lease-back, and Repurchase of Franklin School Emergency Amendment Act of 1994	August 4, 1994

10-240 Emergency Assistance Program Congressional Review Emergency Amendment Act of 1994	May 12, 1994
10-249 American Architectural Foundation Emergency Amendment Act of 1994	May 18, 1994
10-250 Public Utility Environmental Impact Statement Electrical Emergency Amendment Act of 1994	May 19, 1994
10-252 Hacker's License Requirements Amendment Act of 1984 Emergency Amendment Act of 1994	May 18, 1994
10-253 Medicaid Benefits Protection Congressional Review Emergency Act of 1994	June 17, 1994
10-255 Omnibus Criminal Justice Reform Emergency Amendment Act of 1994	June 22, 1994
10-256 Miner Building Conveyance Emergency Amendment Act of 1994	June 23, 1994
10-257 Alcoholic Beverage Control Act and Rules Reform Amendment Act of 1994 Emergency Technical Amendment Act of 1994	June 23, 1994
10-263 Metrobus Commercial Advertising Emergency Amendment Act of 1994	June 24, 1994
10-264 Unemployment Compensation Public School Employees Emergency Amendment Act of 1994	June 24, 1994
10-267 General Obligation Bond Act of 1994 Emergency Amendment Act of 1994	June 30, 1994
10-268 Councilmembers' Salary Freeze Emergency Amendment Act of 1994	July 5, 1994
10-269 Recycling Fee and Illegal Dumping Emergency Amendment Act of 1994	July 7, 1994

10-202 Real Property Deadlines Emergency Amendment Act of 1994	February 18, 1994
10-203 Alcoholic Beverage Control Act Nude Dancing Emergency Amendment Act of 1994	February 18, 1994
10-207 District of Columbia Government Comprehensive Merit Personnel Act of 1978 Employee Benefits Free Clinic Amendment Act of 1990 Extension Emergency Act of 1994	March 2, 1994
10-211 Fuels Technology Emergency Amendment Act of 1994	March 17, 1994
10-213 Medicaid Benefits Protection Emergency Act of 1994	March 21, 1994
10-218 General Obligation Bond Act of 1992, D.C. Law 9-251, Emergency Amendment Act of 1994	March 21, 1994
10-220 Real Property Statutory and Filing Deadlines Conformity Emergency Amendment Act of 1994	March 31, 1994
10-224 Omnibus Budget Support Emergency Act of 1994	April 14, 1994
10-226 Second Omnibus Budget Support Emergency Act of 1994	April 14, 1994
10-235 Rental Housing Conversion and Sale Act of 1980 Extension Emergency Amendment Act of 1994	April 28, 1994
10-236 Underage Drinking Emergency Amendment Act of 1994	April 28, 1994
10-237 Waiver of Tuition for Non-Resident Minor Children of Deceased or Incapacitated Parents Emergency Amendment Act of 1994	April 28, 1994

Table I.1: Emergency Legislation Passed by the Council of the District of Columbia—January, 1994 to December, 1994

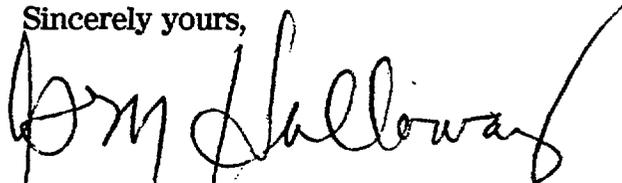
Act	Effective Date
10-174 Health Care Provider Assessment Congressional Recess Emergency Amendment Act of 1994	January 25, 1994
10-175 Alternative Fuels Technology Congressional Recess Emergency Amendment Act of 1994	January 25, 1994
10-176 South Africa Sanctions Congressional Recess Emergency Repeal Act of 1994	January 25, 1994
10-177 Insurance Omnibus Congressional Recess Emergency Amendment Act of 1994	January 25, 1994
10-178 Patient Counseling Congressional Recess Emergency Amendment Act of 1994	January 25, 1994
10-179 Rental Housing Act of 1985 Winter of 1994 Emergency Amendment Act of 1994	January 25, 1994
10-183 Health Care Provider Costs Reimbursement Commitment Emergency Amendment Act of 1994	January 26, 1994
10-184 Water Main Break Fund Establishment Congressional Recess Emergency Act of 1994	January 28, 1994
10-185 District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Congressional Review Emergency Amendment Act of 1994	February 2, 1994
10-187 Modified Guaranteed Contracts Congressional Recess Emergency Amendment Act of 1994	February 16, 1994

B-271115

not evade any required congressional lay and wait requirements.⁶ Finally, based on our review of federal and District laws, we are not aware of anything prohibiting the District from adopting an emergency act to waive competitive procurement requirements for these two leases.

We are sending copies of this letter to the Chairmen and Ranking Minority Members of the Senate and House Committees on Appropriations and the Ranking Minority Member of your Subcommittee. If you need further information, please contact me at (202) 512-9510 or Hodge Herry, Assistant Director, at (202) 512-9469.

Sincerely yours,



Gregory M. Holloway
Director, Governmentwide Audits

Enclosure

⁶The Home Rule Act does not require the District to submit individual contracts or leases to the Congress for approval. Nor does the Home Rule Act require the District to pass an act before it may enter into an individual contract or lease. The District has enacted requirements similar to that set forth in section 304(b) of Public Law No. 104-8, with regard to the Mayor's entering into certain leases or contracts. D.C. Code Ann. Secs. 1-336(c) and 1-1181.5a do not require the Council to pass an act and have it lay and wait before the Congress before a lease or contract may be entered into by the Mayor.

whether the 134 emergency acts passed during this time frame met the D.C. Council's established criteria.

LEASE DISPOSTION

The Council passed two emergency acts that exempted two leases from certain District laws requiring that property be leased in compliance with competitive procurement procedures.³ The Council justified one emergency action on the grounds that District employees needed to be relocated from buildings located on land needed for the District Sports Arena Project.⁴ The Council justified the other emergency action because unless the new lease was approved, the lease about to expire would remain in effect, thus requiring the District to pay higher monthly rentals.⁵

Section 451 of the Home Rule Act as amended by Section 304(b) of Public Law No 104-8, sec. 304(b), 109 Stat. 151 (1995), requires Council approval of contracts involving expenditures of more than \$1 million. The amendment authorizes Council approval through inaction or failure to pass a resolution disapproving the contract. A resolution is not an act; thus, it is not presented to the Mayor for approval, nor does it have to be submitted to lay and wait before the Congress. Thus, assuming that a lease is a "contract" for the purpose of the amended section 451, the Council's granting approval to the lease through an emergency act did

³These were the "800 Ninth Street Emergency Act of 1995" (Act 11-141, October 6, 1995, 42 DCR 5704-5705) and the "415 12th Street, N.W., Lease Conditional Approval Emergency Act of 1995" (Act 11-140, September 29, 1995, 42 DCR 5606-5607), respectively.

⁴The "800 Ninth Street, S.W., Lease Approval Emergency Declaration Resolution of 1995" (Resolution 11-141, October 5, 1995, 42 DCR 5610-5611).

⁵The "415 12th Street, N.W., Lease Conditional Approval Emergency Declaration Resolution of 1995" (Resolution 11-138, September 28, 1995, 42 DCR 5514-5515).

Beginning in October 1995, under the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8), the Financial Responsibility and Management Assistance Authority, commonly referred to as the Authority, is required during a control year¹ to review and approve District acts for consistency with the District's financial plan and budget prior to the acts being submitted to the Congress. The Authority may take no more than 14 days to review a District act. However, the requirement for Authority approval does not apply to emergency acts.

EMERGENCY ACTS PASSED

In calendar year 1994, the District passed 62 emergency acts. The Council initiated 58 emergency acts, while the Mayor initiated 4 emergency acts. Twenty-one of the emergency acts were adopted to take effect immediately in order to cover the period during which another District act containing similar provisions was required to lay and wait before the House of Representatives and the Senate. Forty-one emergency acts were adopted to respond to other emergency situations. Of the 62 emergency acts, the substance of 20 was also enacted into permanent legislation, and the substance of 13 was also enacted into temporary legislation.² The substance of the remaining 29 emergency acts was not made into either permanent or temporary legislation.

In 1995, the District passed 76 emergency acts. The Council initiated 68 emergency acts, while the mayor initiated 8 emergency acts. Twenty-two of the emergency acts were adopted to take effect immediately in order to cover the period during which another District act containing similar provisions was required to lay and wait before the House of Representatives and the Senate before taking effect. Fifty-four emergency acts were adopted to respond to other emergency situations. Of the 76 emergency acts, the substance of 6 was also enacted into permanent legislation, and the substance of 28 was enacted into temporary legislation. The substance of the remaining 42 emergency acts was not made into either permanent or temporary legislation. The enclosure to this letter lists the emergency legislation covered in our review. We did not determine

¹A control year is any fiscal year for which a financial plan and budget approved by the Authority under section 202 (b) of the 1995 act (Public Law 104-8) is in effect, and includes fiscal year 1996.

²Temporary legislation expires after 225 days.

located on land that is needed to build the District's Sports Arena Project. The other was passed to avoid paying higher monthly rental on an expiring lease than under the approved lease. The Council approved both leases through the passage of emergency acts.

To respond to your request, we analyzed emergency acts enacted from January 1994 through November 1995. We discussed the results of our work with officials of the Mayor's Office of Intergovernmental Relations and the Secretary to the D.C. Council. They concurred with the information presented in this report. Our work was performed from August 1, 1995 to December 1, 1995, in accordance with generally accepted government auditing standards.

THE DISTRICT'S LEGISLATIVE PROCESS

The District of Columbia Self-Government and Government Reorganization Act (Home Rule Act), Public Law 93-198, as amended, established procedures for acts passed by the Council to become law. Generally, the Council is authorized to pass acts by a majority vote of members present and voting. All acts passed by the Council must be presented to the Mayor for approval or disapproval. The Mayor has 10 days to disapprove an act, otherwise it is deemed approved. The Council has 30 days to override any Mayoral disapprovals.

Generally, once a District act has received the requisite approval of the Council and the Mayor, it must be submitted to lay and wait before the House of Representatives and the Senate for 30 or 60 days (depending on the substance of the act) before it becomes law. The lay and wait period is required to provide time for a joint resolution to be enacted into law disapproving the District act when it is deemed warranted by the Congress. However, an emergency act is not subject to the lay and wait requirement, but it is only effective for a period of 90 days.

The Council may by a two-thirds vote of its members determine that an emergency circumstance makes it necessary to immediately pass an emergency act. The Home Rule Act does not define what constitutes an "emergency circumstance." However, the Council has adopted a rule that defines an "emergency" to mean a situation that "adversely affects the health, safety, welfare, or economic well-being of a person for which legislative relief is deemed appropriate and necessary by the Council" and adherence to the ordinary legislative process would result in an adverse delay.



United States
General Accounting Office
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Accounting and Information
Management Division

B-271115

February 21, 1996

The Honorable Thomas M. Davis III
Chairman, Subcommittee on the
District of Columbia
Committee on Government Reform
and Oversight
House of Representatives

Dear Mr. Chairman:

This letter responds to a request from your office to provide information on the nature and use of the District of Columbia's authority to adopt emergency legislation during calendar years 1994 and 1995. Specifically, you asked that we (1) describe how legislation is enacted in the District, especially emergency legislation, (2) determine how many emergency bills were enacted in calendar years 1994 and 1995 and their disposition, and (3) determine the disposition of two emergency acts which exempted two leases from compliance with certain District laws regarding competitive procurement.

An emergency act is effective for only 90 days and is not subject to the congressional review that applies to most of the District's legislation. We identified a total of 62 emergency acts that were adopted in 1994 and 76 emergency acts that were adopted in 1995. These emergency acts were used to address a variety of situations which the D.C. Council and the Mayor deemed urgent, affecting, for example, revenues, expenses, or policy issues; waiving legal requirements; or granting the Council approval to take certain actions. In many instances, an emergency act was passed in order to cover the period during which another District act containing similar provisions was undergoing the required congressional review. The enclosure to this letter lists the emergency legislation we reviewed.

You specifically asked about two emergency acts. One was passed to provide office space for District employees who were being relocated from buildings

GAO/AIMD-96-45R Information on Emergency Legislation

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