



Highlights of [GAO-06-884T](#), a report to the Committee on Environment and Public Works, U.S. Senate

## Why GAO Did This Study

Key federal environmental statutes, such as the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), which established the Superfund program, require that parties statutorily responsible for pollution bear the cost of cleaning up contaminated sites. In many cases, liable parties meet their cleanup responsibilities. However, many parties responsible for hardrock mining sites include businesses that no longer exist, having been liquidated through bankruptcy or otherwise dissolved. Under these circumstances, some hardrock mining companies that have caused environmental contamination have left the problem for others, typically the government, to address.

We were asked to provide a statement for the record on the cleanup of contamination resulting from hardrock mining as it relates to our August 2005 report, *Environmental Liabilities: EPA Should Do More to Ensure that Liable Parties Meet Their Cleanup Obligations* ([GAO-05-658](#)). We made nine recommendations in this report aimed at reducing the government's financial burden for costly environmental cleanups. The agency generally agreed with many of the recommendations, stating its intent to further evaluate some of them.

[www.gao.gov/cgi-bin/getrpt?GAO-06-884T](http://www.gao.gov/cgi-bin/getrpt?GAO-06-884T).

To view the full product, including the scope and methodology, click on the link above. For more information, contact John B. Stephenson at (202) 512-3841 or [stephensonj@gao.gov](mailto:stephensonj@gao.gov).

# ENVIRONMENTAL LIABILITIES

## Hardrock Mining Cleanup Obligations

### What GAO Found

EPA could better ensure that companies at high risk of incurring environmental liabilities—including hardrock mining companies—meet their cleanup obligations by making greater use of existing authorities. Most significantly, EPA has not implemented a 1980 statutory mandate under Superfund to require businesses handling hazardous substances to provide the agency evidence of their ability to pay to clean up contamination that could result from their operations. Businesses can provide this evidence, called financial assurance, in several ways, including providing a letter of credit from a financial institution and establishing a dedicated trust fund. The 1980 law requires EPA to use a risk-based approach for both (1) identifying the entities that would be covered and (2) specifying the financial assurance coverage they would be required to have. The law also requires EPA to give priority in developing these requirements to those classes of facilities, owners, and operators that EPA believes present the highest level of risk of injury. Although implementing the financial assurance requirement could help avoid the creation of additional Superfund sites and could provide funds to help pay for cleanups, EPA has cited competing priorities and lack of funds, among other things, as reasons for having made no progress in this area for nearly 25 years. Without the mandated financial assurance regulations, significant gaps in EPA's environmental financial assurance coverage exist, thereby increasing the risk that taxpayers will eventually have to assume financial responsibility for cleanup costs. For example, none of EPA's current financial assurance regulations require companies or industries that pose significant risk of environmental contamination to provide assurance that they can meet cleanup obligations for potential accidents or spills of hazardous substances or wastes.

Hardrock mining can cause significant environmental problems; these sites are typically large, complex, and costly to clean up. For example, in 2004, the EPA Inspector General estimated that cleaning up 63 mining sites on the Superfund's National Priorities List would cost up to \$7.8 billion. In applying the Superfund law's risk-based approach for developing financial assurance requirements, EPA may want to consider hardrock mining—for example, gold, copper, and iron ore mining—a high priority because it presents taxpayers with an especially serious risk of having to pay cleanup costs for thousands of abandoned, inactive, and operating mines in the United States. Some mine owners have defaulted on multiple occasions on environmental liabilities associated with their mines, and the cleanup costs for these sites are being, or are expected to be, borne largely by taxpayers. As a result, EPA may wish to give priority in developing financial assurance requirements to facility owners whose prior actions indicate that they may pose a high risk of default on their environmental obligations. Finally, financial assurances for businesses at risk for environmental contamination can help mitigate the fact that businesses can legally organize or restructure in ways that can limit their future expenditures for cleanups by, for example, separating their assets from their liabilities using subsidiaries to protect their assets.