

GAO Highlights

Highlights of [GAO-13-633T](#), a testimony before the Subcommittee on Environment and the Economy, Committee on Energy and Commerce, House of Representatives

Why GAO Did This Study

According to EPA, the agency that manages the nation's principal hazardous waste cleanup program, one in four Americans lives within 3 miles of a hazardous waste site. Many such sites pose health and other risks, and their cleanup can be lengthy and expensive. EPA's Superfund program, established under CERCLA, provides a process to address contaminated sites. Under CERCLA, parties that contributed to the contamination of a site are generally liable for cleanup and related costs. These parties may include federal agencies, such as DOD, and companies. Based on the risk a site poses, EPA may place the site on the NPL, a list that includes some of the nation's most seriously contaminated sites. As of April 2013, the NPL included about 1,300 sites, and states and federal agencies may address additional contaminated sites outside of EPA's Superfund program. GAO's prior work has identified challenges cleaning up DOD's NPL sites and abandoned mining sites and has assessed litigation related to the Superfund program.

In this testimony, GAO summarizes its work from March 2008 to April 2013 on (1) the role of states in cleaning up hazardous waste sites, (2) DOD's management of its sites on the NPL, (3) federal liabilities from contaminated hardrock mining sites, and (4) litigation under CERCLA and other statutes.

GAO is not making new recommendations but has made numerous recommendations to DOD, EPA, and Interior to better address hazardous waste sites. As described in this statement, the responses to these recommendations have varied.

View [GAO-13-633T](#). For more information, contact David Trimble at (202) 512-3841 or trimbled@gao.gov.

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HAZARDOUS WASTE CLEANUP

Observations on States' Role, Liabilities at DOD and Hardrock Mining Sites, and Litigation Issues

What GAO Found

States, in consultation with the Environmental Protection Agency (EPA), participate in the cleanup of hazardous waste sites in several ways. Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, sites that meet certain risk thresholds are eligible for placement on the National Priorities List (NPL)—a list that includes some of the nation's most contaminated sites. In this context, states may notify EPA of potential hazardous waste sites, evaluate the health and environmental risks at sites being considered for the NPL, or oversee cleanups of NPL sites. In some cases, EPA may elect to defer sites that are eligible for the NPL to other federal or state cleanup programs. As GAO reported in April 2013, EPA had deferred to states the oversight of the cleanup of 47 percent of sites eligible for the NPL. GAO recommended that EPA provide guidance on the most common type of deferral to states, and EPA agreed with GAO's recommendation. In addition, 47 states have their own versions of the Superfund program.

As of April 2013, the Department of Defense (DOD) is responsible for cleanup at 129 NPL sites (over 80 percent of federal facilities on the NPL). In addition to its NPL sites, GAO reported in 2010 that DOD had over 50,000 areas that required cleanup and that the agency had spent almost \$30 billion on cleanup from 1986 to 2008. In July 2010, GAO found that CERCLA requires federal agencies to enter into an interagency agreement with EPA to guide cleanup within a certain period but, as of February 2009, 11 DOD installations had not signed such agreements after 10 or more years on the NPL. DOD has made progress on this issue by decreasing the number of such installations from 11 to 2, but both sites still pose significant risks. GAO recommended that EPA pursue changes to a key executive order that would increase its authority to hasten cleanup at these sites. EPA agreed but has not taken action to have the executive order amended.

GAO's work has identified challenges and liabilities for the federal government stemming from hardrock mining operations, primarily at abandoned mines on federal land. In many cases, mine operators abandoned mines and did not have adequate financial assurance to pay for cleanup. As a result, the government may have to cover these costs. In 2011, GAO found that 57 hardrock mines on federal land managed by the Bureau of Land Management (BLM) had inadequate financial assurance to cover estimated reclamation costs and recommended that BLM improve its ability to evaluate the adequacy of financial assurances. In 2012, BLM reported implementing GAO's recommendation.

CERCLA and other major environmental statutes involve litigation among numerous parties. In addition to cases brought by EPA to enforce laws, litigation includes citizen suits to compel EPA to take action when it does not meet deadlines, and to question regulations and permitting decisions. In addition, potentially responsible parties at hazardous waste sites often file lawsuits against each other or EPA. In 2011, GAO found that about 5 percent of lawsuits against EPA for fiscal years 1995 to 2010 involved CERCLA and that, across 10 environmental statutes, trade associations and private companies comprised 48 percent of the litigants, followed by environmental groups (30 percent), nonfederal governments (12 percent), and other parties (10 percent).