

Superfund Site Visits - Verification of the Effectiveness of Institutional Controls: U.S. EPA office of Inspector General Project Notification



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The United States Environmental Protection Agency (“EPA”) Office of Inspector General (“OIG”) issued a project notification dated September 20th titled:

Superfund Site Visits – Verification of the Effectiveness of Institutional Controls (“Project Notification”)

The Project Notification originated from Christina Lovingood of the OIG’s Land Cleanup and Waste Management Directorate to Peter Wright, Assistant Administrator, Office of Land and Emergency Management, and Susan Parker Bodine, Assistant Administrator, Office of Enforcement and Compliance Assurance.

OIG states in the Project Notification that it plans to initiate an evaluation of the status and integrity of institutional controls at Superfund sites. The objective is to answer the following question:

Do the EPA’s Superfund institutional controls achieve their stated goal of preventing human exposure at Superfund sites?

Various federal and state programs (including Arkansas) use risk-based corrective remediation standards to tailor clean-up levels according to site-specific factors. Such programs often take into account criteria such as to what extent the site is characterized and/or future land use. Typically, superimposed upon these various procedures are site-specific analyses and a requirement that the standards be protective of human health and the environment.

Agencies may be willing, in some circumstances, to provide “blessing” (subject to certain caveats) of a site’s conditions if they deem contaminants adequately delineated and/or isolated from potential exposure. The approval of site conditions will likely be based on a combination of acceptability under applicable screening levels and/or whether the property uses are compatible with these conditions. The incorporation of enforceable institutional controls (i.e., deed restrictions, restrictive covenants, environmental easements, zoning restrictions, groundwater use restrictions, and other non-engineered instruments) or controls such as barriers (pavement in a certain area, etc.) may be used to ensure continued adherence to the restrictions by the current and future real property owner or lessee.

EPA states in the September 20th Project Notification that institutional controls are typically a subset of Land Use Controls. These include engineering and physical barriers – such as fencing and security guards – as well as institutional controls. The federal facility program is stated to use either term in its decision documents.

OIG states that for purposes of its evaluations its scope will include federal facility sites, institutional controls and include Land Use Controls.

Anticipated benefits of OIG's activities are stated to include increased attention by EPA on institutional controls to monitor their effectiveness and prevent human exposure to Superfund site contaminants.

A copy of the Project Notification can be downloaded [here](#).