

Verification of Land-Use Controls at RCRA Corrective Action Facilities: U.S. EPA Office of Inspector General Report



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The U.S. Environmental Protection Agency (“EPA”) Office of Inspector General (“OIG”) has issued a report titled:

The EPA Needs to Improve the Verification of Land-Use Controls at Resource Conservation and Recovery Act Corrective Action Facilities (“Report”).

See Report No. 24-E-0066.

OIG states that it conducted an evaluation to determine to the extent which EPA verifies that Resource Conservation and Recovery Act (“RCRA”) corrective action land-use control remain in place to prevent human exposure and groundwater contamination at facilities where contamination remains in place. The term “land-use controls” typically references non-engineered instruments, such as administrative and legal controls or physical barriers. Examples might be fences, security guards, or restrictive covenants. They may be included as part of a RCRA corrective action to minimize the potential for exposure to contamination and/or protect the integrity of a response action. Their objective is typically to limit land and/or resource use by providing information that helps modify or guard human behavior at a site.

The stages of corrective action at which they might be utilized could include:

- When contamination is first discovered.
- When remedies are ongoing.
- When residual contamination remains on site at a level that does not allow for unrestricted use and unlimited exposure after cleanup.

The OIG Report refers to any site that implements RCRA corrective actions as a RCRA corrective action facility. It states that an EPA analysis from July 2023 identified 31 million people that live within one mile of a RCRA corrective action facility. The RCRA corrective action program is intended to prevent contaminated soil, sediments, groundwater, surface water, and/or air from adversely affecting the health of area populations.

As previously noted, contaminants at a RCRA corrective action facility are sometimes left in place. In such scenarios, EPA and the facility must undertake measures to control how the affected land is used in order to protect human health and the environment.

Land-use controls to prevent exposure to in place contaminants can involve:

- Physical forms (i.e., engineering and institutional controls which may involve physical barriers, fences, groundwater pump and treat systems, contamination caps, covers, and impermeable liners).

- Non-physical forms (i.e., institutional controls which include administrative and legal mechanisms such as easements, zoning restrictions, and restrictive covenants).

The OIG Report concluded that EPA does not have a national process to track or verify the status of land-use controls at RCRA corrective action facilities. Further, it states that EPA has not identified standard methods for long-term oversight of land-use controls at such facilities. In addition, EPA information systems that can be used to access program information are stated to contain data issues. These systems are stated to contain illogical data and data discrepancies. EPA is stated to not be using its information systems to track the status of land-use controls.

OIG makes eight recommendations to improve the verification of land-use controls at RCRA corrective action facilities that include:

- Provide guidance to EPA regions and authorized states on methods that they can use to verify land-use control status, such as reporting or on-site assessments.
- Define the minimum frequency for region and state verification that land-use controls remain operational—for example, verification every one, three, or five years.
- Update RCRAInfo to capture data on the operational status of land-use controls. This could be achieved by establishing national event codes for land-use control activities in RCRAInfo—for example, using Region 3's event codes as nationally defined event codes.
- Provide training to help regions and authorized states input and maintain land-use control data in RCRAInfo.
- Implement mechanisms to monitor land-use control status at the national level, such as annual reports from RCRAInfo that identify land-use controls that have not been verified at the minimum frequency to ensure they remain operational.
- Implement business rules to address the identified issues with illogical RCRA Corrective Action Program data in RCRAInfo.
- Implement a standard format for all regions to use when entering data into Cleanups in My Community.
- Address the discrepancies between the RCRA corrective action facilities listed in RCRAInfo Web and those listed in Cleanups in My Community.

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