



Evaluating the Effectiveness and Efficiency of Region 2's RCRA Corrective Action Program

Fact Sheet

Introduction

- Under the Resource Conservation and Recovery Act (RCRA), EPA administers the Corrective Action program, which requires regulated facilities to investigate and clean up contamination of hazardous waste resulting from current and past practices at the sites.
- EPA Region 2 manages a universe of 674 Corrective Action facilities, including 332 facilities that are tracked under the Government Performance and Results Act (GPRA). This evaluation focuses primarily on the 332 facilities in the "GPRA 2020" universe, including: 174 facilities in New York, 106 facilities in New Jersey, 51 facilities in Puerto Rico, and one facility in the U.S. Virgin Islands.
- Work may be implemented as federal lead or with state agencies, depending on state authorization status. New York is fully authorized to implement the program, New Jersey is not authorized but has a work sharing agreement with EPA, and Puerto Rico and the U.S. Virgin Islands are not authorized and EPA implements the program directly in these jurisdictions.
- EPA Region 2 initiated this evaluation to study the efficiency and effectiveness of the Region's RCRA Corrective Action program and identify improvement opportunities.

Evaluation Questions

- The evaluation explored seven questions in the following six areas:
 - Timeliness of remedy decisions, efficiency of federally-managed vs. state-managed sites, accountability to project schedules, and actions available under current authorities and resources that could accelerate the process.
 - Adequacy of resources to support the program, and the effectiveness of resource allocation.
 - Potential to use administrative orders and other enforcement actions to prevent delays or non-compliance.
 - Benchmarking of Region 2's program with other EPA regions.
 - Environmental stringency of interim and final remedy decisions.
 - Effectiveness of public participation, and any changes the Region could implement to improve communication with external stakeholders, including stakeholders in communities with high-profile sites and environmental justice communities.

Evaluation Methods

- Conducted interviews with over 60 Corrective Action stakeholders to understand views on efficiency and effectiveness and opportunities to strengthen the program.
- Reviewed the central project files for 20 selected Corrective Action sites to assess delays, the Agency's consideration of proposed remedies, and public participation.
- Analyzed site progress and achievement of key milestones in RCRAInfo; conducted statistical analyses of the data to understand differences between federally-managed vs. state-managed sites, duration of key phases, and characteristics associated with delays.
- Reviewed national and regional budget data to assess resource adequacy and the effectiveness of resource allocation in Region 2.
- Participated in the Corrective Action Lean Event for Regions 3 and 7 (February 2013), and analyzed additional benchmarking data for the 10 EPA regions.
- Updated the RCRA Corrective Action process map to identify site management priorities and causes of delays.

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Key Findings and Conclusions

- **While stakeholders agree that many sites take longer to remediate than would be ideal, the evaluation did not identify any systematic or structural elements of the Region 2 program that appear to cause delays across sites.** Reasons for delays include: the delegated structure of the program and EPA's oversight role, which limits EPA's direct influence over many state-lead sites; EPA's historical emphasis on solid waste management units and localized cleanups rather than site-wide remediation; patterns of delays resulting from old permit language or long-established relationships among facilities, states, and EPA, where EPA is strictly in an oversight role; and competing management priorities (e.g., timely cleanup decisions vs. environmental stringency). The Corrective Action process and site progress are broadly similar at the federal and state level. In all cases, meaningful, well-targeted metrics and goals, including GPRAs goals, seem to motivate progress at sites.
- **Resources are not adequate to support the full range of management priorities outlined in EPA guidance, GPRAs requirements, and as described by staff in interviews.** Extensive resources are needed to ensure progress across multiple and sometimes conflicting priorities for site remediation, such as rapid site completion, meaningful public involvement, and effective working relationships that recognize state authority. Instead, Region 2's budget allocation for the RCRA Corrective Action program is declining, which mirrors the budget situation nationwide. The overall budget situation requires Region 2 to develop and communicate clear management priorities that may not address all policy objectives with the same level of urgency at every site.
- **Enforcement has traditionally been a lower management priority for Region 2's RCRA Corrective Action program than negotiated approaches.** This is due in part to historical management decisions, in part to Region 2's structure in which enforcement is separate from the permitting function of RCRA, and in part to the structure of the RCRA statute itself and EPA guidance, which has traditionally emphasized permitting and negotiation. In addition, the delegated structure of the RCRA program has meant that New Jersey and New York have traditionally taken the lead on enforcement for many sites. As a result, EPA Region 2 does not have an integrated "enforcement culture" in its RCRA program. The evaluation findings suggest that an emphasis on enforcement might in some cases be appropriate for certain sites.
- **Region 2's RCRA Corrective Action program is not notably different from programs in other regions.** Rates of progress at sites in the Region 2 RCRA Corrective Action program are similar to those in other regions, and in general, the region is near the center of the distribution in terms of the number and characteristics of Corrective Action sites.
- **Region 2's selection of interim and final remedies does not appear to be a "rubber-stamping" exercise.** Overall, we could find no information that suggests that the Region is not thoroughly considering the remediation options and alternatives presented by the facilities, but in some cases it is possible that resource constraints may affect the quality of EPA review.
- **Stakeholders generally feel that RCRA Corrective Action sites would benefit from more meaningful public participation opportunities.** While the RCRA statute and policy require formal public meetings only when taking a permit action or at the final remedy selection stage, many stakeholders noted that additional, "two-way" public participation opportunities are necessary for the effective management of the sites. Notably, third-party respondents, even when dissatisfied, appear to prefer to work with EPA than with state agencies and facilities, who often have lead roles in public outreach.

Recommendations

- Define management's highest priorities for every site, and focus resources and metrics accordingly.
- Build on existing efforts and momentum in states and other regions to optimize resource use.
- Encourage efficient site completion by adopting a long-term strategy for Corrective Action sites that emphasizes site-wide progress rather than process-based milestones.
- Enhance enforcement capabilities to support appropriate use of enforcement authority at sites that EPA and states identify as strong candidates for federal enforcement.
- At sites with strong public interest or potentially high impact, strengthen opportunities for meaningful, two-way public participation earlier in the process.

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