

NATIONAL REVIEW

Regulation-Happy EPA Is Forgetting to Inspect Hazardous Waste

FRED LUCAS

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A recently released watchdog report underscores how the Environmental Protection Agency may be ignoring core responsibilities, even as it pursues ever-expanding regulatory schemes that go well beyond its ambit.

The inspector-general report determined the EPA has failed to adequately monitor about half of the country's nonoperational hazardous-waste storage sites, known as Treatment, Storage, and Disposal Facilities (TSDFs). Regular monitoring is still required after these sites are closed, under the Resource Conservation and Recovery Act (RCRA).

“Because of the lack of inspections, a hazardous waste leak from a compromised unit could go undetected for years, with dire human health and environmental consequences,” the EPA's IG report says. “For example, a leak that is not expeditiously detected could contaminate groundwater, resulting in a loss of drinking water supply, high cleanup costs, and human exposure to contaminants.”

It's a blunt assessment from the sort of audit that often softens even startling findings with stilted and genteel bureaucratese.

Key here is the EPA's actual mission, which as stated on the agency's website is to “protect human health and the environment.” This includes ensuring “federal laws protecting human health and the environment are administered and enforced fairly, effectively and as Congress intended.”

Further, Congress specifically enacted the Resource Conservation and Recovery Act in 1976 to regulate the disposal of hazardous waste. As the EPA chases expansive “solutions” to climate change, the IG report indicates it is running afoul of this decades-old law by failing to properly inspect 339 of the 687 nonoperational hazardous-waste sites. The investigation began in August 2019 and wrapped up in February of this year. The report went public at the end of March.

Further, the report notes, it's not an insignificant number of people who could be impacted.

“A total of 22.8 million people live within . . . about three miles . . . of a TSDF with units closed with waste in place,” the report says.

Borrowing language from the agency's mission, the report states, “The EPA did not consistently verify the continued protection of human health and the environment at TSDFs with RCRA units that were closed with hazardous waste in place.”

Still, the EPA leadership hasn't agreed to implement all of the IG's recommendations. For example, the agency offered alternatives to the IG's suggestions to set up mechanisms to ensure all inspections of waste facilities are completed within the two-or-three-year time frame under the EPA's own policy. In its response to the IG, EPA officials asserted that the report should have clearly distinguished between statutory requirements and agency guidelines.

At several points, the IG report referenced both the statute and the mission to underscore the disconnect. "The EPA does not consistently verify the continued protection of human health and the environment at TSDFs with RCRA units closed with waste in place," the report says. "Specifically, the EPA does not inspect TSDFs at the frequency required by the RCRA statute for operating TSDFs or the frequency set by [the Office of Enforcement and Compliance Assurance's] Compliance Monitoring Strategy for nonoperating postclosure TSDFs. The RCRA statute requires inspections every two years at operating TSDFs, but in contrast, the EPA's Compliance Monitoring Strategy sets the policy of inspections at least once every three years at nonoperating postclosure TSDFs."

With a reputation for overreach, the EPA is among the least popular federal agencies among conservatives. Still, nobody should be cheering this rap on the knuckles from the IG. Any taxpayer-supported agency should at least perform its defined functions. And it should certainly fulfill those basic duties before setting out on new and expansive missions.

When Republican President Richard Nixon originally established the EPA, his executive order specified the need for "the establishment and enforcement of environmental protection standards consistent with national environmental goals." Congress passed the Resource Conservation and Recovery Act — along with the Clean Water Act and Clean Air Act — to help define those goals.

Yet the EPA too often has become an agency carrying out a political agenda of pie-in-the-sky regulatory schemes, such as the Clean Power Plan and the Waters of the United States rules under former President Barack Obama and his administrator, Gina McCarthy.

Even former President Donald Trump's deregulatory agenda didn't entirely refocus the EPA on its core mission. That's not to say he didn't change the culture, as the Trump EPA issued only seven major rules compared with 21 major rules during Obama's first term, according to the Cato Institute. Trump's first EPA administrator Scott Pruitt sought to curb the EPA's mission creep but got caught up in a web of ethics issues and had to resign — slowing the momentum to rein in the agency.

Given the Left's near-religious commitment to climate causes, however, the mission creep could become a much bigger problem in the Biden administration's EPA — while the fundamentals like those detailed in the latest IG report suffer neglect.