



EPA TARGETS DJ BASIN IN NEXT ROUND OF INSPECTIONS

By: [Jim Martin](#)¹

Beginning the week of August 15, EPA personnel will begin performing inspections of a random sample of oil production facilities in the DJ Basin. These inspections are being performed pursuant to section 7003 of the Resource Conservation and Recovery Act (RCRA). While other provisions of RCRA limit the statute's applicability to the upstream oil and gas sector, section 7003 enables EPA to respond to any situation that presents an "imminent and substantial endangerment" to human health and the environment. EPA also has broad inspection authority under RCRA.

Before EPA could take enforcement action under section 7003, EPA would have to show that (1) the conditions at the site may present an imminent and substantial endangerment (2) from the handling, storage, treatment, transportation, or disposal of a solid or hazardous waste and (3) that the respondent somehow contributed to one of those activities. The courts have read that provision expansively, and the statute authorizes EPA to pursue either judicial action or an administrative order against any person who the agency alleges is in violation of section 7003. The agency's proposed remedy could range from requiring the respondent to initiate a study of the site to requiring the respondent to remove and remediate the source of the endangerment. However, section 7003's reach is not limitless, and anyone who is the subject of an enforcement action can challenge the agency's action.

EPA has carried out these kinds of inspections at oil production facilities in North Dakota and Montana, but at this time we do not know the results of those inspections. We do know that the

¹ Research conducted by Liz Stevens.

Colorado inspections in 2016 will focus on both large and small facilities that have been constructed in the last two years. In future years, EPA will inspect older facilities.

It appears the inspectors are particularly interested in identifying risks to wildlife from oil sheens on pits, any standing or pooled oil, and missing covers or netting to prevent access by birds to pits. For an example of the kinds of things EPA will be looking for, see the following report: https://www.earthworksaction.org/files/pubs-others/OGEA_EPA_landwaste_2003.pdf Of course, EPA will also be looking for improperly stored, handled, or disposed of solid and hazardous wastes.

How should you prepare if one of your facilities is randomly selected for an inspection? As always, you should ensure that your facility has implemented permit conditions and other measures to prevent injury or death to wildlife, and that your site is properly maintained and you have implemented good housekeeping measures. You should have personnel at the site to monitor the inspection. You are entitled to ask to see the credentials required for every EPA inspector. And if the inspector takes any samples, you are entitled to a receipt.

Learn more: COGCC personnel have agreed to accompany the EPA inspectors. COGCC is hosting a presentation by EPA on this new initiative.

**July 21
1:30-2:30 PM Mountain Time
At the COGCC offices**

**Or join by telephone
408.638.0968 or 646.558.8656
ID: 285 730 487**

For more information, please contact [Jim Martin](#).