

## Interview with the EPA (Part 1 of 3)

By Thomas Britt and Jake Tilley, SCS Tracer Environmental

Now that we've discussed how to prepare for an inspection, let's hear what the regulators have to say. For this series of articles we interviewed **Mary Wesling** and **Robert Lucas** from U.S. Environmental Protection Agency (EPA) Region 9. Ms. Wesling has worked for the EPA for almost 17 years as the Enforcement Coordinator for Clean Air Act Section 112r – Risk Management Program and the Emergency Planning & Community Right-to-Know Act regulations. Mr. Lucas has worked for the EPA for 14 years, originally conducting Toxic Release Inventory (TRI) inspections, and more recently as a RMP inspector. Mr. Lucas has conducted or participated in over 260 RMP facility inspections including ammonia refrigeration facilities in California, Nevada, Arizona, and Hawaii.

Q: What are some key factors that might prompt an inspection from EPA?

A: A facility might be chosen for an inspection for a number of factors. We develop our inspection list based on the following:

- Quantity of the listed chemical – a large quantity or multiple processes with more than the threshold quantity of the chemical;
- Multiple listed chemicals over the threshold quantity;
- Number of people or sensitive receptors in the worst-case release footprint;
- Accidental releases;
- Local or state agency referrals;
- Citizen concern; and
- Regional or national emphasis program.

Q: To what extent does EPA work with local regulatory bodies (LEPCs, SERCs, City / County Governments, etc.) to conduct an RMP inspection?

A: EPA has always consulted with local agencies. Under Executive Order 13650, addressing coordination between federal agencies and state and local agencies, will be formalized for all Regions. Here in Region 9, EPA notifies the appropriate state and local agencies of our intent to inspect and often times coordinate joint inspections where appropriate.

Q: What level of communication is there between the EPA and OSHA when it comes to enforcing Program Level 3 RMP requirements? Would OSHA and EPA perform a joint inspection of a facility?

A: EPA Region 9 has a policy of engaging with the local OSHA authority through continuous consultation and joint trainings. EPA and OSHA operate under separate authority and laws to enforce so we can and do bring parallel cases for similar violations at facilities. Joint inspections can happen; however, OSHA and EPA usually conduct individual and independent inspections.

Q: Does EPA take into consideration violations issued at a facility that is part of a larger organization when inspecting a sister facility? For example, OSHA can issue a more severe fine for a “repeat” violation that occurred at a different facility within the same organization.

A: Absolutely. EPA has the same authority to issue a more severe fine for a “repeat” violation” that has occurred at both the facility in question and a different facility within the same organization. EPA also looks at, and considers in the penalty calculation, violations under different safety authorities (such as other federal regulations, fire codes, and state and local regulations) which are cited or identified by the local agencies or other federal agencies.

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