

ENVIRONMENTAL UPDATE

April 22, 2005



All Appropriate Inquiry (AAI)

A new standard for environmental due diligence is on its way from EPA. Of note, the 2002 "Brownfields Law" amends CERCLA to clarify liability provisions for certain landowners. Final rule making is pending. The new standard, All Appropriate Inquiry (AAI) is a result of new liability protections for property purchasers, on properties that are found to be contaminated as a result of a release or releases of hazardous substances on or upgradient of the property being purchased. The AAI rule requires potential purchasers to perform adequate investigation to determine if the property has been impacted by past or current use or from an off-site source or sources.

Adequate investigation is a broad term, but the definition is very specific, "conduct all appropriate inquiry" to determine whether the property is impaired. The AAI rule is a broader scope of inquiry than the ASTM E1527-97 document and eliminates the term "recognized environmental condition." AAI's objective is the "identification of conditions indicative of releases and threatened releases of hazardous substances on, at, in, or to the subject property." Under the proposed AAI rule a prospective purchaser must now include the following in the due diligence process:

- Interviews with past and present owners, operators, and occupants;
- A review of historical sources of information, such as aerial photographs, fire insurance maps, building department records, chain of title documents, and land use records;
- A review of government records for both the subject property and nearby or adjoining properties;
- Visual inspections of the subject property and of adjoining properties;
- Additional interviews or research to gather commonly known or reasonably ascertainable information about the property, to the extent necessary to identify conditions indicative of releases or threatened releases of hazardous substances at the property;
- Consideration of the degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation; and
- A written report documenting the results of the environmental inquiry.



If the property is abandoned and there is evidence of uncontrolled access or unauthorized use, then the environmental professional must interview one or more occupants of neighboring or nearby properties.

A broader range of government records review and research is also required. For example, records of reported or threatened releases, including site investigation reports for the subject property; records of activities, conditions, or incidents likely to cause or contribute to releases or threatened releases, including landfill or other disposal location records, storage tank records and permits, generator records and permits, federal, tribal, and state government listings of sites, spill reporting records, CERCLIS records; public health records; Emergency Response Notification System records; and registries or publicly available lists of engineering and institutional controls.

AAI also defines the role of the "environmental professional" performing AAI. The definition is specific to academic, professional licensing, and/or specialized qualifications.

For additional information, please call one of Green Star's offices or visit the EPA's web-site and search for Federal Register: August 26, 2004, pages 52541-52581.



Upcoming SPCC Rule Changes??

The EPA is also reviewing whether alternate regulatory requirements are appropriate under the Clean Water Act for facilities that handle oil below a certain threshold amount ("certain facilities"). In addition, the EPA is reviewing the SPCC rules in the context of facilities with oil-filled and process equipment.

Specifically the EPA is considering:

- Alternatives to the PE certification requirement,
- The impact to small business,
- The impact to the agricultural sector,
- The intended definition of oil-filled equipment,
- Alternatives to the SPCC process for facilities with oil-filled equipment

The EPA has received public comments on these issues. Additional guidance or rules on these issues are pending at this time.

Extended SPCC Deadlines

The EPA has granted an additional extension of the compliance dates for the 2002 Revised SPCC Rule. The new compliance dates are as follows:

February 17, 2006, to amend an existing SPCC Plan, and
August 18, 2006, to implement the Plan.

In addition, applicable facilities that begin operations between August 16, 2002 and August 18, 2006, must prepare and implement an SPCC Plan by August 18, 2006.

Green Star is pleased to announce

Christopher J. Dick, PE & Debra M. Boopsingh, PG, PE have passed the examinations allowing them to join the elite group of Registered Professional Engineers licensed in the state of Texas.

Chris, a Purdue graduate, has a BS in Civil Engineering and an MS in Environmental Science and Engineering. Chris joined Green Star in 2003, as the head of Green Star's Air Quality Services Division and has over 8 years of experience.

Debra has her undergraduate degree in Geology and a Masters degree from the Colorado School of Mines in Environmental Science and Engineering. Debra has been with Green Star since the company began in 2000 and has 8 years of experience. Debra is also a Professional Geologist, licensed in the States of Texas and Tennessee.

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