

ENVIRONMENTAL UPDATE

May 15, 2006



ALL APPROPRIATE INQUIRY (AAI) FINAL RULE

One year from the date after being published in the Federal Register, the AAI rule will become effective and that date is **November 1, 2006**. The 2002 Brownfields Law amending CERCLA affects *“any public or private party who may potentially claim protection from CERCLA liability as an innocent landowner, prospective purchaser, or a contiguous property owner”*. This ruling also applies to any party receiving a grant under EPA’s Brownfields Grant program.

A new ASTM Standard (E1527-05) has been developed to incorporate the scope of AAI. Under AAI, certain aspects of the old ASTM standard that were subjective are now mandatory. The following are now mandatory under AAI:

- Interviews with the current owner/occupants of a subject property and interviews with neighboring/nearby landowners of abandoned subject properties;
- Additional interviews with current and past facility managers, past owners/operators/occupants, and employees of past and current occupants of the subject property as necessary to meet the objectives of AAI, but discretion by the environmental professional to determine if such interviews are necessary;
- A more extensive and thorough research of tribal and local government records as well as documenting extensive data gaps and identification of sources consulted to address data gaps;
- Research of environmental liens filed or recorded under federal, state, tribal or local law for the subject property to determine if response actions were taken to address past releases on the property including identifying institutional or engineering controls placed on the property;
- Research of historical sources from the present to when the property first contained structures or was first used for residential, agricultural, commercial/industrial or governmental purposes;
- An on-site visual inspection of the property, facilities, and improvements. This should include a visual inspection of adjoining properties from the subject property line, public right-of-ways, or other vantage point;
- Documentation of any specialized knowledge by the prospective property owner of the subject property;
- Research and investigation into commonly known or reasonably ascertainable information about the subject property such as newspaper articles, interviews with local government officials, community organizations and web-site sources;
- The prospective property owner is required to consider the purchase price of the property and fair market value of the property if the price is due to the presence of a release(s) or threatened release(s) of hazardous substances;
- An opinion provided by the environmental professional and documented in the final report as to whether additional appropriate investigation is warranted or necessary;

- Within one year of property acquisition an AAI must be performed or updated. In addition, an update to an AAI must also be performed if the AAI was conducted more than 180 days prior to purchase; and
- Education and experience requirements of professionals are: 1) a state or tribal issued certification or license such as a Professional Engineer’s (P.E.) license or Professional Geologist’s (P.G.) license **AND** three years of relevant full-time work experience; **or** 2) a Baccalaureate degree or higher in science or engineering **AND** five years relevant full-time work experience; **or** 3) ten years of relevant full-time work experience. Individuals not meeting any of the above requirements can still perform an AAI as long as it is under the direction and supervision of an individual meeting the requirements.

For a more detailed accounting of the AAI rule, please go to: <http://www.epa.gov/brownfields/regneg.htm>.



\$110 MILLION INCENTIVE TO UPGRADE DIESEL EQUIPMENT

Approximately **\$110 million** in incentive funding is available for a **limited time** from TCEQ to upgrade, replace, or repower older diesel equipment with newer, cleaner-operating equipment. The grant money, administered through the TCEQ’s Texas Emission Reduction Plan (TERP), is potentially available to anyone who operates certain types of equipment (listed in Table 1) predominantly in one or more of the non-attainment counties listed in Table 2.

**Table 1 – Equipment Potentially Eligible for 2006
TERP Grant**

Equipment Category	Examples
On-road Heavy-duty Vehicles (GVWR > 8,500 lbs)	Heavy-duty trucks Buses
Non-road Mobile Equipment (engines rated at 25 hp or greater)	Construction Equipment Diesel Forklifts Off-road Trucks Ground-support equipment Tractors and Combines
Stationary Engines (rated at 25 hp or greater)	Compressor Engines Pump Engines
Locomotives	Switching Locomotives
Marine Equipment	Tug, Push, and Pilot Boats
Refueling Infrastructure	Onsite infrastructure for refueling equipment with a qualifying liquid or gaseous fuel (propane, CNG, etc.).
On-site and On-vehicle Electrification and Idle Reduction Technology	Auxiliary Power Units (APUs) and equipment that enables a vehicle or equipment to use electric power to operate while the vehicle or equipment is parked

Table 2 – Geographic Area Eligible for 2006 TERP Grant

Non-attainment Area	Counties Eligible
Dallas-Fort Worth	Denton, Collin, Tarrant, Dallas, Rockwall, Kaufman, Ellis, Johnson, and Parker
Houston-Galveston-Brazoria	Brazoria, Fort Bend, Waller, Montgomery, Liberty, Chambers, Galveston, and Harris
Beaumont-Port Arthur	Hardin, Orange, and Jefferson

To qualify, the new or modified equipment must emit at least 25% less nitrogen oxide (NOx) exhaust than the equipment it is replacing. Funding amounts are variable and depend on several factors including the type of the proposed project (replacement, repower, new infrastructure, etc.), the age and type of the equipment being replaced or repowered, the age and type of the replacement equipment, and the historic and anticipated usage levels of the equipment. A few examples of projects that have previously been funded through this program are provided in Table 3.

Table 3 – Examples of TERP Grants Previously Awarded

Project Description	Project Cost (\$)	Grant Amount (\$)
Replace 3 On-Road Trucks	124,591.19	124,591.19
Install Auxiliary Power Unit (APU) on Vehicle	6,750.00	6,750.00
Re-Power 5 Drilling Rigs	105,441.00	94,736.90
Replace 1 On-Road Truck	75,000.00	47,915.67
Replace 2 Trucks and Repower 11 Stationary Pumps	355,476.84	194,792.00
Replace 4 On-Road Trucks	674,080.00	333,000.00
Replace 1 Wheel Loader	96,773.67	35,688.24
Replace 5 Busses	1,550,000.00	357,500.00
Replace 2 Wheel Loaders, 2 Rollers, and 1 Asphalt Paver	955,839.21	92,512.17
Replace 15 Cement Mixer Trucks	1,458,585.00	72,285.00

Green Star assists with submitting grant applications. Please do not delay – applications must be received by the TCEQ TERP administrator by **June 16, 2006**. Contact Chris Dick or Leonard Albright of Green Star at 214-222-8752 soon to see if this program can benefit your company.

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