



## Environmental Technical Highlights By Specco Environmental

**Reciban nuestros más sinceros deseos para una Feliz Navidad y un Próspero Año Nuevo en esta Navidad. Durante el periodo navideño nuestra oficina permanecerá cerrada desde el jueves 24 de diciembre de 2004 hasta el lunes 10 de enero de 2005. ¡ Feliz Navidad !**

**Nuestro Artículo del Mes:**

### **New Standard and Practices for All Appropriate Inquires**

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On August 26, 2004 EPA publishes in the Federal Register the proposed changes in the 40 CFR 312, Standard and Practices For All Appropriate Inquires (AAI). These changes in Section 312 are caused by the creation of two new landowners liability protections in the Federal Brownfield Law. These two new protections are: Bona Fide Prospective Purchaser Defense and the Contiguous Property Owner Defense. These two protections are additional to the Innocent Landowner Defense created by CERCLA.

These changes in the environmental due diligence process will affect the way Phase I Environmental Site Assessments are performed and who are the professionals qualified to perform these assessments. Some of the changes in Section 312 are subtle, but others are substantive, especially in the definition of Environmental Professional. Section 312.10 defines an Environmental Professional as an individual who possesses the necessary combination of education, training and experience to exercise professional judgment. The proposed regulation clearly states the requirements the professional must comply with the definition stated in Section 312.10. Another new requirement of the regulation is that the Professional performing the AAI will be required to sign a Certification using the proposed statements in the 40 CFR 312.21.

Another area where changes have been made are: government record review, site inspection, historical sources, data gaps, contaminants of concern, interviews with neighbors and the shelf life of the document.

The Changes in the 40 CFR 312 once approved will cause changes in the American Society For Testing and Materials (ASTM) Standard 1527-00 "Standard Practice for Environmental Site Assessments: Phase 1 Environmental Site Assessment". This Standard has been the rule of thumb in the Phase I industry for years. With this new regulation ASTM will change

the Standard to comply with the new requirements. These will keep the Standard in compliance with the new requirements.

These changes will require that all institutions or individuals needing a Phase I ESA to be aware that once this regulation is approved, NOT all environmental consultants and report formats will comply with the definition of Environmental Professional or the requirements of Section 312. What these means is that if the professional performing the AAI doesn't comply with the definition stated the report will not comply with the regulation and therefore the client will not qualify for any of the defenses establish in CERCLA for property owners. The regulated community must be aware that if the AAI is not perform by an Environmental Professional as define in the 312.10.

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