



THE ADMINISTRATIVE WATCH

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EPA SIGNS PROPOSED RULE FOR NEW SITE ASSESSMENT STANDARDS

At long last, U.S. EPA has signed a proposed rule that will set new standards for conducting environmental site assessments. The new standards will affect owners, potential buyers and developers of real estate who are seeking liability protection under the innocent landowner, contiguous landowner and bona fide prospective purchaser provisions of CERCLA (a.k.a. Superfund). In order to be eligible for any of these defenses, otherwise potentially responsible parties must be able to demonstrate that they conducted "all appropriate inquiry" as to the previous ownership and uses of the property. The proposed rule will set forth the regulations proposed by EPA which specify the standards and practices that meet the level of necessary inquiry.

EPA developed the proposed rule using the negotiated rulemaking process. The language of the proposed rule is expected to be the language proposed by the Negotiated Rulemaking Committee on All Appropriate Inquiry in its Final Consensus Document on November 14, 2003.

EPA is expected to post the preamble to the proposed rule on its website (www.epa.gov) this week. The proposed rule is expected to be published in the *Federal Register* by the end of August 2004. Upon publication, the proposed rule will be open for public comment for at least 60 days.

BCCZ will provide additional updates on this proposed rule as additional information becomes available. In the meantime, if you have any questions concerning the standards for conducting environmental site assessments or would like to explore providing EPA with comments on the proposed rule, please contact Lindsay Howard (412) 394-5444, Lisa Bruderly (412) 394-6495, or any of the other attorneys in BCCZ's Environmental Health and Safety Services Group.

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