



Beyond Compliance

Promoting Environmental Stewardship, Safety & Health at all
University System of Georgia (USG) Institutions

"Creating a More Educated Georgia"

Volume 3, Issue 2

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From the Director

NOTE: This article initially appeared in the "From the Director" column in the Fall 2000 edition of Environmental Safety Navigator.

We are often reminded that OSHA rules and regulations do not apply to college and university campuses in the state of Georgia. The State Attorney General's Office will tell that, legally, this is a fact. However, these same legal advisors will also point out that common law, and perhaps more importantly, common sense, do indeed apply.

We should not need an OSHA regulation to tell us that it is important to check the atmosphere of a confined space such as a manhole to ensure it is safe, or to provide proper protective equipment, before an institution employee enters it. Likewise, it should not take an OSHA standard to tell us that it is important to verify that a piece of electrical equipment is locked-out and deenergized prior to allowing one of our staff members to work on it. In fact, if you review the OSHA standards, you will note that there are a number of work activities for which there are no prescribed regulations. It is impossible to regulate everything. We should not expect that, and I would hope we would not want that.

The threat of an OSHA penalty is simply not a good enough reason to implement safety procedures. At some point, the employer, whether they are in private industry where OSHA applies or in the public sector, where OSHA does not—has to recognize that they

have a general (i.e. common law) duty to make a reasonable effort to protect employees from recognized environmental, health and safety hazards.

In the University System of Georgia, we need to take this charge just as seriously as our counterparts in private industry, even though we do not currently run the risk of OSHA penalties. To do anything less would not only be poor business practice; it would also show a lack of respect for the University System work force.

Hope you are having a great semester so far. See you around campus!

Mark L. Demyanek, CIH, CSP

Director, Compliance and Administration

Upcoming Events:



- October 27-29, 2004 USG Facilities Officers' Conference, Savannah
- November 25, 2004—Thanksgiving
- December 8, 2004—GHENEHS Meeting, Georgia Southwestern State University, Americus
- December 25, 2004—Christmas
- January 30, 2005—Hazardous Chemical inventories due to BOR

OUR MISSION:

TO SUPPORT THE BOARD OF REGENTS' MISSION OF "CREATING A MORE EDUCATED GEORGIA" THROUGH TEACHING, DISCOVERY, OUTREACH AND PUBLIC SERVICES BY PROVIDING LEADERSHIP AND SERVICES TO PROMOTE ENVIRONMENTAL STEWARDSHIP, SAFETY AND HEALTH AT ALL UNIVERSITY SYSTEM INSTITUTIONS.

EPA Extends SPCC Compliance Date

The U.S. Environmental Protection Agency recently issued a final rule extending the deadline for facilities to prepare and implement their Spill Prevention, Control, and Countermeasure Plans.

The SPCC requirement generally applies to facilities with an aboveground storage tank capacity of >1,320 gallons or belowground capacity >42,000 gallons. (See the Spring 2004 edition of *Beyond Compliance* for more details on the SPCC requirements.)

Facilities in operation before August 16, 2002, must revise their existing SPCC plans before February 17, 2006, and must implement the plan by August 18, 2006.

www.usg.edu/ehs

Have you visited our web site lately?



If you haven't, here are some key EH&S

resources you may be missing out on:

[EHS Calendar of upcoming events](#)

An online version of the [NIOSH Pocket Guide to Chemical Hazards](#)

An [inspection checklist](#) for underground storage tanks (USTs)

US EPA Sector Strategies Program Includes Colleges & Universities

In June 2003, the U.S. Environmental Protection Agency (EPA) launched a new Sector Strategies Program under the Office of Policy, Economics and Innovation.

The goals of this multi-media program are to work with manufacturing and service sectors to identify and develop innovative approaches to improve environmental performance across each sector.

Colleges and Universities were one of seven sectors originally selected by EPA to participate in the new program. The other sectors were agribusiness, cement manufacturing, construction, forest products, iron and steel manufacturing, and ports. Five additional sectors have been added since then.

According to EPA estimates, the Colleges and Universities sector includes approximately 4,000 institutions, with revenues of \$260 billion and 2.9 million employees.

EPA is working with a Coordinating Committee to provide leadership to the sector, to assist in the development of the sector's strategic plan, to set sector goals, and to support the work of the sector. The Coordinating Committee consists of contacts from six organizations:

- [American Council on Education \(ACE\)](#)
- [Association of Higher Education Business Officers](#)
- [Campus Consortium for Environmental Excellence \(C2E2\)](#)
- [Campus Safety Health and Environmental Management Association](#)
- [Howard Hughes Medical Institute](#)
- [National Association of College and University Business Officers](#)

EPA and the Coordinating Committee have jointly selected three priority areas on which to focus their efforts, and have formed Work Groups to address each area. The following is a discussion of each area and some of the initiatives and resources

that are currently available within each area.

Promoting Environmental Management Systems

The purpose of this area is to develop and implement a strategy to deliver EMS outreach tools, training resources, and support to promote the development of EMS on college and university campuses.

Numerous EMS tools are currently available to colleges and universities, including a [self-assessment checklist](#) designed by C2E2 and a [web page on EMS](#) on EPA's web site.

Regulatory Innovation

The work group in this area is working to address the most significant regulatory barriers to sector-wide environmental performance. Initial efforts are focused on creating more flexible requirements for managing hazardous wastes generated by laboratories, such as by allowing the hazardous waste determination to be made outside the lab provided certain controls are in place.

Performance Management

The Performance Management work group is exploring creative ways to measure sector-wide environmental and economic progress using performance indicators, success stories, and other tools.

EPA's New England Office has published a [case study](#) on environmental performance reports that describes current reporting approaches used by various institutions, as well as resources for institutions that are interested in beginning to report environmental performance.



To learn more about this program, click on the above logo.

Emergency Generators Face Tighter Air Permitting Rules

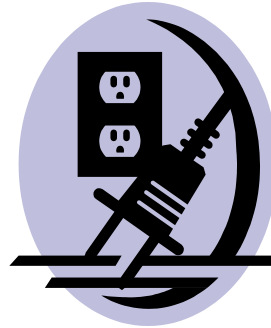
As part of the recent “bump up” of the greater Atlanta ozone nonattainment area to “severe”, the Georgia Environmental Protection Division (EPD) has amended its air quality rules to tighten SIP permitting requirements for emergency generators.

Emergency generators are generators whose function is to provide back-up power when electric power from the local utility is interrupted. These generators may burn natural gas, LPG, gasoline, dual fuel, or diesel fuel.

Previously, EPD’s air quality rules included a permit exemption for all emergency generators that operated for less than 500 hours per year. However, with the new amendment the maximum annual hours of operation for emergency generators in the 45-county Atlanta 1 hour ozone nonattainment area has been reduced to 200 hours.

The 45 affected counties in the nonattainment area include Banks, Barrow, Bartow, Butts, Carroll, Chattooga, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Floyd, Forsyth, Fulton, Gordon, Gwinnett, Hall, Haralson, Heard, Henry, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Newton, Oconee, Paulding, Pickens, Pike, Polk, Putnam, Rockdale, Spalding, Troup, Upson, and Walton.

In addition, EPD has reduced the maximum capacity for which engines used for emergency power or peaking power located in these 45 counties may qualify for a permit exemption from 300 kilowatts (kW) to 100 kW.



Operators in the affected counties with emergency generators that operate 200 or more hours per year or with a capacity greater than 100 KW may need to obtain a SIP permit in accordance with the EPD rules at 391-3-1-.03.

These changes also underscore the need to keep an operating log for all emergency generators. At a minimum, the operating log should include the following information:

- Make, model and location of emergency generator
- Fuel consumption, if generator runs on gasoline or No. 2 Diesel
- Hours operated for emergency and/or testing

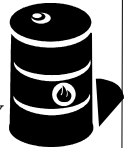
For more details, visit EPD’s web page at <http://www.ganet.org/dnr/environ/>.

Change in DNR Leadership

In July of this year, Lonice Barrett, the chief of the Georgia Department of Natural Resources (DNR), accepted an appointment by Governor Perdue to be the Director of Implementation for the New Georgia.

Noel Holcomb, a 26-year employee of DNR, was appointed as the new chief.

RCRA FAQs



Q. Are conditionally exempt small quantity generators (CESQG) required to perform weekly inspections for hazardous waste containers according to the requirement in 40 CFR Section 265.174?

A. There is no federal requirement for CESQGs to perform inspections on hazardous waste containers. Large quantity generators (LQG) and small quantity generators (SQG) are required to perform weekly inspections in areas where containers are stored (Section 262.34(a)(1)(i) and Section 262.34(d)(2)). Specifically, generators should check for leaks and deterioration caused by corrosion or other factors. States may require inspections of containers from all generators.

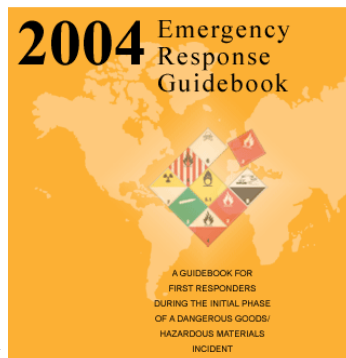
Source: RCRA Monthly Call Center Report, June 2004

NOTE: Georgia EPD incorporates 40 CFR 262 into state regulations, and so also does not require CESQGs to perform weekly inspections.

2004 DOT ERGs are Here!

The US Department of Transportation (DOT) has released the 2004 update of the Emergency Response Guidebook (ERG2004).

This book was developed jointly by the US DOT, Transport Canada, and the Secretariat of Communications and Transportation of Mexico (SCT) as a guide to aid emergency responders who may be the first to arrive at the scene of a transportation incident involving a hazardous material.



The format and contents of the ERG help first responders to:

- (1) quickly identify the specific or generic classification of the material(s) involved in the incident, and
- (2) protect themselves and the general public during this initial response phase of the incident.

DOT updates the ERG every 3-4 years to reflect new technologies and regulatory changes. The next update is scheduled for 2008.

What is the Innocent Landowner Defense?

In 1980, Congress enacted CERCLA as a way to require the cleanup of properties contaminated by hazardous substances, and to force certain parties to conduct and pay for the cleanup.

Under CERCLA, the present owner or operator of the contaminated facility is subject to CERCLA liability as a "potentially responsible party" (PRP).

However, CERCLA provides landowners with statutory defenses to PRP liability if the hazardous substance release was caused by:

- *An act of God*
- *An act of war*
- *An act or omission of a third party*

The innocent landowner defense arises out of this third party defense. Congress provided that an owner of a contaminated property can establish a defense to CERCLA liability if the following conditions are met:

- *The property was acquired after the hazardous substance was disposed there; and*
- *At the time of acquisition, the owner "did not know and had no reason to know" that the hazardous substance was disposed on the property.*

An owner can establish that he or she had "no reason to know" only by conducting appropriate due diligence prior to the acquisition.

EPA Proposes New Due Diligence Standards

On August 26, 2004, the Environmental Protection Agency (EPA) proposed regulations that detail the steps a prospective property purchaser must take to qualify under the "innocent landowner defense." (see box at left)

The current interim standards for all appropriate inquiries, as established by Congress, include either the procedures provided in ASTM E1527–2000, entitled "Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process," or the earlier standard, ASTM E1527–97.

The newly proposed standard contains several differences from the current ASTM standards. These include:

- The requirement that an "environmental professional" conduct due diligence, and a specific definition of environmental professional.
- A change in the objective of the inquiry from identifying "recognized environmental conditions" to searching for conditions that are indicative of a release or

threatened release of hazardous substances.

- Increased documentation requirements relative to recorded environmental cleanup liens, the reasons for the price and market value of a property in those cases where the purchase price paid for the subject property is significantly below the market value of the property; and recording information about the degree of obviousness of contamination at a property.

Comments on the proposed rule are due to EPA by October 25, 2004.

Once EPA promulgates a final rule containing the standards and practices for conducting all appropriate inquiries, the current ASTM standards will no longer be the operative standards but will be replaced by the standards and practices included as the final regulation. At that time, the USG's Criteria for Environmental Site Assessments will also be updated to reflect the changes.

ANSI Standard Aims to Protect Public At Construction Sites

The American Society of Safety Engineers (ASSE) recently published an ANSI standard titled *Protection of the Public on or Adjacent to Construction Sites (ANSI/ASSE A10.34-2001).*

The purpose of this consensus standard is to increase the safety of the public around construction and demolition sites by establishing voluntary safety guidelines for employees, contractors, building owners, and rescue personnel. Proactive recognition of potential hazards, both during planning stages as well as during actual construction work, is emphasized.

The standard provides definitions and protocols for consultants or superintendents to follow during construction or demolition operations, and sets an action plan to protect the public in the event of an emergency at

the site.

The standard also includes guidelines for protecting the public from the diverse hazards inherent to most construction and demolition activities, including noise, dust fumes, mists, smoke, vapors, machinery and equipment, and falling objects.

Proper storage of hazardous materials and substances on construction sites is addressed in the standard as well.

The appendix includes a non-mandatory public hazard protection plan checklist that can be used to assess compliance with the standard.

An electronic or printed copy of the standard is available from [ASSE](http://www.asse.org) for between \$37 and \$53 (*price varies depending on membership status*).

