



# THE OTO ENVIRONMENTAL R E V I E W

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## Special Points of Interest:



### AAI – Holy Grail of Liability Limitation?

The CERCLA innocent landowner defense provides Superfund liability limitations for bona fide prospective purchasers and contiguous property owners if such parties undertake "all appropriate inquiry" at the time the property is acquired. But does Superfund still have teeth? In the past two years there has been only one new Superfund site in New England, Olin Chemical in Wilmington, MA. Lightning strikes more often.

See - <http://www.epa.gov/swerosps/bf/aai/aalifs.htm> for more.

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## ALL APPROPRIATE INQUIRY

BY BRUCE NICKELSEN

When Congress passed the Superfund Amendment Reauthorization Act (SARA) in 1985, it included a new concept called the Innocent Landowner Defense. This provision provided protection from potential Superfund liability for property purchasers provided they completed "All Appropriate Inquiry" (or AAI) before closing on a purchase. SARA did not explain what AAI should include, and in 1993 the American Society for Testing and Materials (ASTM) published an AAI standard known as the Phase I Environmental Site Assessment Standard (E 1527-93; updated in 2000 to E 1527-00), which experienced broad

acceptance.

The 2002 Brownfields Amendments to CERCLA required the Environmental Protection Agency (EPA) to establish specific standards for conducting AAI. EPA published the rule on November 1, 2005 and it will become effective on November 1, 2006. ASTM has updated their standard to be consistent with EPA (E 1527-05). Until November 1, 2006 EPA considers either the interim standard (E 1527-00) or the new standard (E 1527-05) to satisfy the requirements for AAI.

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## TRI AND TURA

BY JIM GAGNON

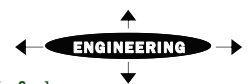
As summer approaches, our thoughts turn to fly fishing, Tanglewood, Saratoga, and **AHHHHHH!!!!!!! TRI & TURA...**

### What is TRI?

The Toxics Release Inventory (TRI) is a publicly available federal EPA database containing information on toxic chemical releases and other

waste management activities reported annually by certain industry groups and federal facilities. The inventory was established as part of the 1986 Emergency Planning and Community Right-to-Know Act (EPCRA) and expanded under the 1990 Pollution Prevention Act.

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## An Italian Holiday

After a 5-week trip to Italy, OTO Associate, Jim Gagnon and his wife Pat wrote a cookbook to recount their eating, and wine drinking adventures. With photos and on-location paintings, "Pluck the Fleeting Instant; Recipes and Recollections of Italy" was an instant classic, selling dozens of copies to family and friends. This recipe comes from a trattoria located near the Piazza Navona in Rome.

### Bucatini all'Amatriciana

- 1 pound Bucatini pasta cooked al-dente,
- 6 oz pancetta (Italian bacon) sliced thick & cut into 1" pieces,
- 2 cloves garlic, sliced thin,
- 1 onion, finely chopped,
- ¼ tsp. red pepper flakes,
- 28 oz can peeled Italian plum tomatoes, chopped,
- 1 tbs olive oil,
- 2 tbs chopped fresh parsley,
- Salt & pepper to taste,
- Fresh grated Parmigiano Reggiano cheese

Cook pancetta and onions in oil over medium heat for 5 minutes; Add garlic and pepper flakes and cook 1 minute; Add tomatoes, season, and simmer for 20 minutes; Drain al-dente pasta, add parsley and sauce, and serve with cheese.

## TRI AND TURA *continued from Page 1*

By July 1st each year, regulated facilities must file with the Environmental Protection Agency (EPA). Applicability of the program is triggered for facilities:

- With specific Standard Industrial Classification (SIC) Code,
- That have the equivalent of 10 full time employees, and
- That manufacture, process, or otherwise use any listed chemical compound or chemical classes above their respective threshold quantities.

### What is TURA?

The state Toxics Use Reduction Act (TURA) requires Massachusetts companies using "large quantities" of certain chemicals to evaluate pollution prevention opportunities, implement them if practical, and

report their results on an annual basis. They must also evaluate their efforts and update their toxics use reduction plans every other year. TURA applies to the same companies subject to the TRI. EPA and DEP have websites that provide lots of information on these programs.

<http://www.epa.gov/tri/>  
<http://www.mass.gov/dep/bwp/dhm/tura/turapubs.htm>

OTO has experience assisting companies with TRI and TURA forms and filings. Our staff has been involved with the TRI program since the program's inception in July 1988. After visiting the websites, you'll want to give Jim Gagnon a call to discuss how OTO can help you comply.

## ALL APPROPRIATE INQUIRY

*Continued from Page 1*

The new rule differs from the old in requiring that AAI be performed by an "environmental professional", defined as a person possessing certain combinations of education and relevant work experience. The rule incorporates key elements of the previous standard such as: a site reconnaissance; records review; interviews; and documentation of recognized environmental conditions. However, the new rule extends the scope of certain due diligence activities and requires specific documentation of data gaps.

Interviewing the current owner is now required versus the "reasonable effort" to interview previously

required. Past owners and occupants should also be interviewed. For vacant property interviews with neighboring property's owners are needed. New data sources, such as possible tribal records and institutional controls must be assessed. New ground for environmental professionals is the requirement to compare the purchase price to fair market value for a comparable non-contaminated property.

Call Bruce Nickelsen at 508-366-6409 to discuss how AAI may impact your projects.

## OTO REMEDIATION SERVICES

BY JOHN HENRY, SENIOR PROJECT MANAGER

When it comes to spills and releases of hazardous materials, OTO's mission is to put cost-effective solutions to work on our client's problems. We pride ourselves on the range of tools we bring to this process. When Site remediation is necessary, OTO has the experience and personnel to implement a variety of remedial technologies.

A significantly under-appreciated element of successful remediation is an understanding of the detailed interplay of geology, hydrogeology and contaminant migration. Biological, chemical, and mechanical based systems are most effective when each of these factors are considered. Cleanups must be tailored to site conditions; one size does not fit all. Ignoring this fact leads to wasted time, ineffective cleanups and lost money.

In addition to technical feasibility, selecting a remedial option includes the evaluation of costs, (initial and on-going), and estimating the time required to achieve cleanup goals. We consider a

range of options at each site from limited soil excavation to the installation of a full scale in-situ remediation system. Initial costs may include excavation, soil disposal and/or the purchase and installation of remediation equipment. On-going costs may include groundwater monitoring, continued operation of the remedial system, and fees associated with utilities (electric and sewer discharge) and regulatory compliance.

Balancing technical feasibility with costs and benefits is central to effective remedy selection. One alternative may reduce cleanup time by 50 percent, but be too costly to implement. Another option, like bioremediation, may seem like just the right approach, but the presence of relatively impermeable soil at the site limits its potential effectiveness. At OTO, we try to anticipate the problems others overlook; this requires experience and a diverse approach. Call John Henry at 413-788-6222 if you would like to talk about how OTO's remedial services may help in your situation.

## ASSESSMENT OF INDOOR AIR IMPACTS FROM SUBSURFACE RELEASES

JILL E. NAUGLE, RISK ADVISOR, PROJECT MANAGER

Regulators are placing a greater emphasis on the assessment of indoor air impacts at waste disposal sites reported with volatile organic compounds (VOCs). VOCs may migrate up from subsurface groundwater and soil into indoor air at sites such as gasoline stations, dry cleaners, schools, and residences. Once inside, the vapors may enter the body via inhalation. As a result of this increased regulatory emphasis, an increased number of risk assessments evaluate indoor air impacts.

Previous MADEP regulations required the assessment of indoor air impacts when groundwater was less than 15 feet deep and within 30 feet of a currently occupied structure. The "Wave 2" regulations expand the indoor air assessment requirement to include sites where occupied buildings are planned.

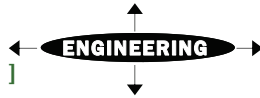
The new regulations also require indoor air assessments when VOCs are present in site soil within specified distances from the occupied structure. These rules apply whether or not the

VOCs are present in groundwater.

The new regulations do not necessarily require direct indoor air testing, when assessment is needed. MADEP has recommended using a phased approach. The approach begins with soil gas screening, progresses to soil gas analysis and, if necessary, advances to the direct measurement of indoor air. This phased approach may be used to assess possible indoor air impacts due to VOCs in both groundwater and soil.

However, direct indoor air testing must be conducted with caution. The "background" VOCs from everyday household products and activities may confound the meaning of the results. Representative data developed from the soil gas or indoor air testing may be used in the risk assessment process.

If you would like to discuss how OTO can help with your indoor air issues, please call Jill at 508-366-6409.



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## OTO - A PROFILE

O'Reilly, Talbot & Okun Associates is a consulting firm with specialties in environmental and geotechnical engineering, safety and health. Founded in 1994, we have a full-time staff of 25, with offices in Springfield and Westborough, MA, and Manchester, CT.

We're proud of the work we do and we put the integrity of the firm behind every project. Our goal is achieving smart value-driven engineering solutions built around safety and regulatory compliance.

Here are some of the services we offer:

- Brownfields Redevelopment Support
- Geotechnical Engineering
- Environmental Site Assessment
- Health and Safety Compliance
- Industrial Environmental Compliance
- TURA and TRI Filings
- Risk Assessment

- Environmental Remediation
- Industrial Hygiene and Indoor Air Consulting
- Asbestos Assessment and Management

Want to know more?

See our web site - [www.oto-env.com](http://www.oto-env.com)

Or for particular questions, call Jim Okun at 413-788-6222, or drop an e-mail to [okun@oto-env.com](mailto:okun@oto-env.com).