



Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-98-2006
November 13, 2006

ENVIRONMENTAL LIABILITY

Updated Guidelines for an Environmental Risk Program

Summary: The FDIC is issuing updated Guidelines for an Environmental Risk Program to reflect changes to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) related to the Environmental Protection Agency's (EPA) All Appropriate Inquiry Rule.

Distribution:

FDIC-Supervised Banks (Commercial and Savings)

Suggested Routing:

Chief Executive Officer
Chief Lending Officer

Related Topics:

The EPA All Appropriate Inquiry Rule can be found at <http://www.epa.gov/brownfields/regneg.htm>.

Attachment:

Guidelines for an Environmental Risk Program

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Note:

FDIC financial institution letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2006/index.html.

To receive FILs electronically, please visit <http://www.fdic.gov/about/subscriptions/fil.html>.

Paper copies of FDIC financial institution letters may be obtained through the FDIC's Public Information Center (1-877-275-3342 or 703-562-2200).

Highlights:

- Environmental contamination and its associated liability can have a significant effect on the value of real estate collateral. It is also possible for the lending institution to be held directly liable for the environmental cleanup of real property collateral acquired by the institution.
- Institutions should have in place appropriate safeguards and controls to limit exposure to potential environmental liability associated with real property held as collateral. The environmental risk program should be tailored to the needs of the institution.
- In January 2002, the Congress amended CERCLA to establish, among other things, additional protections from cleanup liability for a new owner of a property. The prospective purchaser must meet certain statutory requirements and, prior to the date of acquiring the property, undertake "all appropriate inquiries" into the prior ownership and uses of a property.
- In November 2005, the EPA promulgated its All Appropriate Inquiry Rule, which establishes the standards and practices that are necessary to meet the requirements for an all appropriate inquiry into the prior ownership and uses of a property. The All Appropriate Inquiry Rule became effective on November 1, 2006.
- As part of its environmental risk analysis of any particular extension of credit, a lender should evaluate whether it is appropriate or necessary to require the borrower to perform an evaluation that meets the standards and practices of the EPA All Appropriate Inquiry Rule.