

## Green Building Initiatives – No Longer Abstract Ideas

With a growing public awareness of energy consumption and other climate sensitive issues, green building construction is quickly becoming the wave of the future. Every business should stay abreast of existing and pending legislation and the implications that federal, state and local regulations are certain to have on new construction and modification of existing buildings.

According to the United States Green Building Counsel (USGBC), Alabama Chapter, buildings in the United States account for 72% of electricity consumption, 39% of CO2 emissions, 13% of potable water consumption, and 65% of total waste output. (<http://www.usgbcocal.org/leed-quick-facts.php>). In response to this and other similar data, a number of federal agencies and state and local governments have begun to adopt policies that either mandate or strongly encourage green building for certain public and commercial buildings. Such policies are largely implemented under the guise of reducing greenhouse gas emissions to prevent global warming.

The United States Environmental Protection Agency (EPA) has defined "green building" as "the practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building's life-cycle from siting to design, construction, operation, maintenance, renovation and deconstruction. This practice expands and complements the classical building design concerns of economy, utility, durability, and comfort. Green building is also known as a sustainable or high performance building." Green buildings are intended to be designed to reduce the overall impact of the built environment on human health and the natural environment by: (i) efficiently using energy, water and other resources; (ii) protecting occupant health and improving employee productivity; and (iii) reducing waste, pollution and environmental degradation. According to the EPA, green buildings can reduce negative impact on health and the environment by incorporating "sustainable materials in their construction (e.g., reused, recycled-content, or made from renewable resources); create healthy indoor environments with minimal pollutants (e.g., reduced product emissions); and/or feature landscaping that reduces water usage (e.g., by using native plants that survive without extra watering)."

A number of rating systems have developed to evaluate proposed design and construction and to determine whether a building is in fact "green". Perhaps the most well-known of these rating systems is provided by the USGBC, a nonprofit, non-governmental organization that has become internationally known as the certifying entity for green building. The USGBC developed the Leadership in Energy and Environmental Design (LEED) program, which certifies that one has designed, constructed, or owns a green building based upon a four-level, point-driven rating system (Certified, Silver, Gold, and Platinum). Other competing rating systems exist such as the Green Globe Rating System, a private rating system, and ENERGY STAR, a certification system of the U.S. Department of Energy which qualifies new and renovated buildings as energy efficient and awards the ENERGY STAR label.

With regard to new construction of federal buildings, green building requirements are expanding. The Energy Policy Act of 2005 and the Energy Independence and Security act of 2007 include energy efficiency and sustainable design requirements. As a result, a number of federal agencies and all branches of the military have adopted LEED requirements for public buildings. Also, the Federal Stimulus Package that President Obama signed into law in February of 2009 provides funding for projects that support green building, such as school improvement projects, upgrades to make government buildings more energy efficient, and residential projects to weatherproof and make existing homes more energy efficient.

States and municipalities across the country have enacted green building legislation which varies from mandating that public construction projects meet certain LEED requirements to requiring that all new construction, whether private or public, meet minimum requirements. Other legislation creates financial incentives for private developers to design and construct green buildings. Uniformly, the trend is toward regulation of more types of projects.

Pending before the Alabama Senate is Senate Bill 87 which provides for the Energy Independence and Sustainable Construction Act of Alabama, the stated purpose of which is to “promote effective energy and environmental standards for the construction, rehabilitation, and maintenance of buildings in this state, in order to improve the state’s capacity to design, build, and operate high-performance buildings, create new jobs, contribute to economic growth, and increase the state’s energy independence.” Pursuant to the bill, all major facility projects in the state, as defined in the bill, “shall be designed, constructed, and at least certified as receiving two globes using the Green Globe Rating System or receiving the LEED Silver standard.” (AL SB 87, Alabama 2010, at <http://www.trendtrack.com/taxis/walks/al2/gettext.html?session=1051&billid=65840&amend=&billnum=SB87>).

This month, the International Code Counsel (ICC) published the first public version of a proposed International Green Construction Code which was created by the ICC’s Building Technology Committee, with the American Institute of Architects (AIA) and ASTM International as cooperating sponsors. The purpose of this proposed code is to provide a mandatory baseline of codes addressing green commercial construction and to provide a framework for linking sustainability with safety and performance. (A complete copy of the Public Version 1.0 of the International Green Construction Code can be found and downloaded at <http://www.iccsafe.org/cs/igcc/Pages/default.aspx>). The International Green Construction Code has been described as “a landmark achievement that proponents say will accelerate construction of high-performance green buildings nationwide.” (Kauffman, Tim; *New Standards Expected to Accelerate Green Construction*, Federal Times, March 12, 2010). Clearly, this is additional evidence that green building requirements will be ever more prevalent in the years to come.

### Additional Items of Interest

**Environmental Law Section Hosts Annual Symposium** – The Alabama State Bar Environmental Law Section will host its annual symposium “Limited Resources – Crowded Planet” on June 18, 2010 in Sandestin, Florida. The program will feature speakers from across the southeast discussing a range of topics including preservation of environmental resources and “green” building. For more information about the symposium, including registration information, contact Cheryl Dockery at (205) 633-0238 or [cdockery@tannerquin.com](mailto:cdockery@tannerquin.com).

**EPA Adds Three Sites in Southeast to NPL** – In March, the EPA added ten hazardous waste sites, including three sites in the southeast, to the Superfund National Priorities List (NPL). The NPL is the list of sites known to have releases or threatened releases of hazardous substances and for which further investigation or cleanup is warranted. The southeastern sites are The JJ Seifer Machine in Ruskin, Florida; Kerr-McGee Chemical Corp. in Jacksonville, Florida, and Kerr-McGee Chemical Corp. – Navassa in Navassa, North Carolina. There are currently 1, 279 sites on the NPL. Additional information is available at [www.epa.gov/superfund/sites/npl/](http://www.epa.gov/superfund/sites/npl/).

**ADEM Works to Reduce Diesel Emissions in Birmingham Area** – ADEM is working with the American Cast Iron Pipe Company and the United States Pipe and Foundry Company to reduce diesel emissions in the Birmingham area in an effort to meet Clean Air Act National Ambient Air Quality Standards for fine particulate matter. Through funding received under the Diesels Emissions Reduction Act, these companies are installing pollution control devices on their existing fleets of vehicles and locomotives to reduce particulate emissions.

**Vermont Votes to Shut Down Nuclear Power Plant** – In February, the Vermont State Senate voted to shut down the Vermont Yankee nuclear power plant in 2012. The plant, which is located in Vernon, Vermont, has suffered both a cooling tower collapse and a tritium leak in recent years. The owner of the plant, Entergy Corp., seeks to operate the plant an additional twenty years beyond its designated 2012 retirement date.

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**Richard E. Davis** is a partner with Starnes & Atchison LLP. Richard's practice is primarily devoted to environmental litigation and regulatory compliance. He represents clients in federal and state courts in Alabama as well as in matters involving federal and state regulatory agencies. Richard's practice includes CERCLA, Clean Air, Clean Water, and RCRA litigation; natural resource and property damage claims; and land and water use issues. He also defends personal injury actions based on chemical exposure. Richard is a Fellow in the Litigation Counsel of America Trial Lawyer Honorary, was listed in the 2008 and 2009 editions of *Alabama Super Lawyers*® magazine for Environmental Litigation, and is active in public service endeavors as well.

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