

Environmental Response, Compensation, and Liability Act (CERCLA). Specifically, today's final rule addresses the interim standard set by Congress in the Small Business Liability Relief and Brownfields Revitalization Act ("The Brownfields Law") for conducting "all appropriate inquiry." Today's action clarifies that, in the case of property purchased on or after May 31, 1997, the requirements for conducting "all appropriate inquiry," including the conduct of such activities to qualify as a *bona fide* prospective purchaser and to establish an innocent landowner defense under CERCLA, can be satisfied through the use of ASTM Standard E1527-00, entitled "Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process." In addition, recipients of brownfields site assessment grants will be in compliance with the all appropriate inquiry requirements if they comply with either the ASTM Standard E1527-97, or the ASTM E1527-00 Standard.

DATES: This final rule is effective June 9, 2003.

ADDRESSES: The record for this rulemaking has been established under docket number SFUND-2002-0007. Copies of public comments received, EPA response, and all other supporting documents are available for review at the U.S. Environmental Protection Agency Docket Center located at 1301 Constitution Ave., NW., Washington, DC 20004. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. To review docket material, it is recommended that the public make an appointment by calling (202) 566-0276.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/CERCLA Call Center at 800-424-9346 or TDD 800-553-7672 (hearing impaired). In the Washington, DC metropolitan area, call 703-412-9810 or TDD 703-412-3323. For more detailed information on specific aspects of this rule, contact Patricia Overmeyer, Office of Brownfields Cleanup and Redevelopment (5105T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0002, 202-566-2774. overmeyer.patricia@epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially affected by this action include public and private parties who, as *bona fide* prospective purchasers, contiguous property owners, or innocent landowners,

purchase property and intend to claim a limitation on CERCLA liability in conjunction with the property purchase. In addition, any entity conducting a site characterization or assessment with a brownfields grant awarded under CERCLA section 104(k)(2)(B) may be affected by today's action. This includes State, local and tribal governments that receive brownfields site assessment grants. A summary of the potentially affected industry sectors (by NAICS codes) is displayed in the table below.

Industry category	NAICS code
Real Estate	531
Insurance	52412
Banking/Real Estate Credit	52292
Environmental Consulting Services	54162
State, Local and Tribal Government	N/A

The list of potentially affected entities in the above table may be exhaustive. Our aim is to provide a guide for readers regarding those entities that EPA is aware potentially could be affected by this action. However, this action may affect other entities or listed in the table. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section entitled **FOR FURTHER INFORMATION CONTACT**.

Preamble

- I. Statutory Authority
- II. Background
- III. Summary of Final Rule
- IV. Changes from January 24, 2003 Proposed Rule
- V. Response to Comments
- VI. Administrative Requirements

I. Statutory Authority

This final rule clarifies provisions included in section 223 of the Small Business Liability Relief and Brownfields Revitalization Act which amends section 101(35)(B) of CERCLA (42 U.S.C. 9601(35)) and clarifies interim standards for the conduct of "all appropriate inquiry" for obtaining CERCLA liability relief and for conducting site characterizations and assessments with the use of brownfields grant monies.

II. Background

On January 11, 2002, President Bush signed the Small Business Liability Relief and Brownfields Revitalization Act ("the Brownfields Law"). The Brownfields Law revises CERCLA section 101(35) and provides Superfund liability limitations for *bona fide* prospective purchasers and contiguous property owners, in addition to clarifying the requirements necessary to

establish the innocent landowner defense under CERCLA. Among the requirements added to CERCLA is the requirement that such parties undertake "all appropriate inquiry" into prior ownership and use of certain property.

The Brownfields Law requires EPA to develop regulations that will establish standards and practices for how to conduct all appropriate inquiry. In addition, in the Brownfields Law, Congress established, as the Federal interim standard for conducting all appropriate inquiry, the procedures of the American Society for Testing and Materials (ASTM) including Standard E1527-97 (entitled "Standard Practice for Environmental Site Assessment: Phase 1 Environmental Site Assessment Process"). This interim standard applies to properties purchased on or after May 31, 1997, until EPA promulgates Federal regulations establishing standards and practices for conducting all appropriate inquiry.

On January 24, 2003, EPA published a proposed rule (68 FR 3478) that would clarify for the purposes of CERCLA section 101(35)(B), and until the Agency promulgates regulations implementing standards for all appropriate inquiry, parties may use either the procedures provided in ASTM E1527-00, entitled "Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process," or the standard ASTM E1527-97. Today's rulemaking constitutes EPA's final action on the proposed rule.

III. Summary of Final Rule

Today's final rule clarifies that persons may use the current ASTM standard, E1527-00 for conducting all appropriate inquiry under CERCLA section 101(35)(B) for properties purchased on or after May 31, 1997. Such property owners also may continue to use ASTM's previous standard, E1527-97 for conducting all appropriate inquiry. In addition, parties receiving federal grant monies for the characterization and assessment of brownfields properties, may use either the 1997 or the 2000 version of the ASTM Phase I Site Assessment Standard when conducting site assessments using brownfields grant monies.

IV. Changes From the January 24, 2003 Proposed Rule

We made one minor change in the rule text. One commenter pointed out that the most recent version of the ASTM Phase I Environmental Site Assessment Standard was incorrectly referenced as "ASTM E1527-2000" in the proposed rule. We agree that the