

allows for the use of the American Society for Testing and Materials (ASTM) standard known as Standard E1527-00 and entitled "Standard Practice for Environmental Site Assessment: Phase 1 Environmental Site Assessment Process" as the interim standard for conducting all appropriate inquiry for properties purchased on or after May 31, 1997, or in the alternative, the use of Standard E1527-97, and entitled "Standard Practice for Environmental Site Assessment: Phase 1 Environmental Site Assessment Process."

Today's action does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective June 9, 2003.

#### List of Subjects in 40 CFR Part 312

Environmental protection, Administrative practice and procedure, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 2, 2003.

Christine Todd Whitman,  
Administrator.

■ For the reasons set out in the preamble, title 40, chapter I of the code of Federal Regulations is amended as follows:

■ 1. Subchapter J is amended by adding new part 312 to read as follows:

#### PART 312—INNOCENT LANDOWNERS, STANDARDS FOR CONDUCTING ALL APPROPRIATE INQUIRY

##### Subpart A—Introduction

Sec.

312.1 Purpose and applicability.

312.2 Standards and practices for all appropriate inquiry.

##### Subpart B—[Reserved]

**Authority:** Section 101(35)(B) of CERCLA, as amended, 42 U.S.C. 9601(35)(B).

##### Subpart A—Introduction

###### § 312.1 Purpose and applicability.

(a) *Purpose.* The purpose of this section is to provide standards and procedures for "all appropriate inquiry" for the purposes of CERCLA Section 103(35)(B).

(b) *Applicability.* This section is applicable to: potential innocent landowners conducting all appropriate inquiry under Section 101(35)(B) of CERCLA; *bona fide* prospective purchasers defined under Section 101(40) of CERCLA; contiguous property owners under Section 107(q) of CERCLA; and persons conducting site characterization and assessments with the use of a grant awarded under CERCLA Section 104(k)(2)(B).

###### § 312.2 Standards and practices for all appropriate inquiry.

With respect to property purchases on or after May 31, 1997, the procedures of the American Society for Testing and Materials (ASTM) 1527-97 and the procedures of the American Society for Testing and Materials (ASTM) 1527-00, both entitled "Standard Practice for Environmental Site Assessment: Phase 1 Environmental Site Assessment Process," shall satisfy the requirements for conducting "all appropriate inquiry" under Section 101(35)(B)(i)(I) of CERCLA, as amended by the Small Business Liability Relief and Brownfields Revitalization Act.

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#### DEPARTMENT OF TRANSPORTATION

##### Federal Railroad Administration

##### 49 CFR Part 209

[Docket No. FRA 1999-6086]

RIN 2130-AB15

##### Final Policy Statement Concerning Small Entities Subject to the Railroad Safety Laws

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Final rule; final statement of agency policy.

**SUMMARY:** On August 11, 1997, in compliance with the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), FRA issued an Interim

Policy Statement Concerning Small Entities Subject to the Railroad Safety Laws. This document discusses comments received in response to the Interim Policy Statement and adopts the Interim Policy Statement as the Final Policy Statement Concerning Small Entities Subject to the Railroad Safety Laws, with minor edits required to update the language. The Final Policy Statement contains FRA's communication and enforcement policy statements concerning small entities subject to the railroad safety laws. FRA has in place programs that devote special attention to the unique concerns and operations of small entities in the administration of the national railroad safety compliance and enforcement program.

**DATES:** This policy statement is effective May 9, 2003.

**FOR FURTHER INFORMATION CONTACT:** (1) *Principal Program Person:* Jeffrey Horn, Office of Safety Planning and Evaluation, Federal Railroad Administration, 1120 Vermont Ave. NW., Mail Stop 25, Washington, DC 20590 (tel: (202) 493-6283) (2) *Principal Attorney:* Melissa Porter, Office of Chief Counsel, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 10, Washington, DC 20590 (tel: (202) 493-6034) (3) *Enforcement Issues:* Douglas Taylor, Operating Practices Division, 1120 Vermont Ave., NW., Mail Stop 25, Washington, DC 20590 (tel: (202) 493-6255).

##### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 11, 1997, FRA issued an Interim Policy Statement Concerning Small Entities Subject to the Railroad Safety Laws (62 FR 43024, August 11, 1997) (Interim Policy Statement) in compliance with the requirements of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121) (SBREFA). SBREFA establishes requirements for federal agencies to follow with respect to small businesses, creates duties for the Small Business Administration (SBA), and amends portions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) and the Equal Access to Justice Act (EAJA) (5 U.S.C. 501, *et seq.*). The primary purposes of SBREFA are to implement recommendations developed at the 1995 White House Conference on Small Business, to provide small businesses enhanced opportunities for judicial review of final agency action, to encourage small business participation in the regulatory process, to develop accessible sources of information on