

Assessment: Phase I Environmental Site Assessment Process,” or the standard ASTM E1527–97.

III. Today's Action

EPA is proposing to revise the interim standard for all appropriate inquiry to allow for the use of the ASTM 1527–2000 standard to reduce any undue burden placed upon brownfields grant recipients. The Agency views this as a noncontroversial action and anticipates no adverse public comment on this proposed revision. We believe that today's action is appropriate because it: (1) Allows for the use of the updated version of the standard cited in the Act, while not disallowing the use of the former version, and the updated version of the standard is similar to, and not significantly different than, the previous standard; (2) reduces the burden of obtaining an appropriate standard, given that the standard cited in the Brownfields Law is no longer available; and (3) this action merely clarifies an interim standard that is effective only until EPA promulgates a final rule replacing the interim standard.

Because we view today's action as noncontroversial, in the “Rules and Regulations” section of today's **Federal Register**, we are publishing the clarification to the interim standard for all appropriate inquiry as a direct final rule. We are publishing the direct final rule without prior proposal because we view this as a noncontroversial clarification and we anticipate no adverse comment. We explain our reasons for this action above. If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We may address public comments in a subsequent final rule based on this proposal. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Future Rulemaking Setting Standards for “All Appropriate Inquiry”

EPA also is announcing today its progress in developing regulatory standards for conducting “all appropriate inquiry.” The Brownfields Law requires that EPA promulgate such standards within two years of enactment of the law, or by January 2004. Congress included in the Brownfields Law a list of criteria that the Agency must address in the regulations establishing standards and practices for conducting all appropriate inquiry (section 101(35)(2)(B)(ii)). The Act also requires that parties receiving funding under the

federal brownfields program to conduct site assessments must conduct the site assessment in accordance with the standards and practices for all appropriate inquiry established under the same provision of the Act.

EPA is soliciting the advice and input of public and private stakeholder groups in developing the regulations for conducting all appropriate inquiry in accordance with the criteria set forth by Congress. We understand that voluntary standards developed by standards developing organizations, such as the ASTM 1527–2000 standard, are available and are currently being used to conduct all appropriate inquiry in conjunction with private real estate property transactions. In addition, site assessment protocols have been established under the federal Superfund remedial action and RCRA corrective action programs, as well as within State clean up programs. We intend to develop federal regulations that build upon the depth of experience accrued in both the public and private sectors in implementing these standards and programs. We believe that building upon currently available private sector standards for undertaking all appropriate inquiry as well as building on the experience of state and federal government site assessment programs is the most efficient and economical way to develop federal regulatory standards that will both meet the criteria set in the Brownfields Law and ensure minimal disruption to the private market and state and federal site assessment programs.

To ensure that we obtain a diverse array of input from both private sector stakeholders and state program officials, EPA is developing the federal regulations by soliciting private and public sector input under the convening stage of the negotiated rulemaking process, and may supplement our information gathering through the conduct of public meetings. We initiated the convening stage of a negotiated rulemaking process to identify appropriate stakeholder groups and solicit advice and input from experienced public and private sector users of similar standards. Following an evaluation of stakeholder interest and input during the convening process, we either will announce our intent to continue with a negotiated rulemaking process, or announce our intent to solicit public input, by way of an additional notice or a public meeting, on options for a proposed rulemaking that will set standards for all appropriate inquiry. We anticipate announcing our intended approach for the development of a proposed

rulemaking in the **Federal Register** by the winter of 2003. Any questions regarding our future regulatory effort should be directed to the parties listed above in the section entitled **FOR FURTHER INFORMATION CONTACT**.

V. Statutory and Executive Order Reviews

a. Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is therefore not subject to review by the Office of Management and Budget.

b. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 FR U.S.C. 3501 *et seq.*)

c. The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the APA or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This action will not have a significant impact on a substantial number of small entities because it does not create any new requirements.

d. Because the purpose of today's action is to make a clarification that does not create any new requirements it has no economic impact and is not subject to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pubic Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

e. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

f. This rule does not have tribal implications, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000).

g. This rule is not subject to Executive Order 13045 (62 FR 1985, April 23, 1997), because it is not economically significant.

h. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

i. This action does involve technical standards; therefore, the requirements of