

II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no new enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. Those entities are already subject to the regulatory requirements that are included in the revisions to the State program in this final action.

#### 5. Executive Order 13132: Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” Policies that have federalism implications is defined in the Executive Order to include regulations that 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 various levels of government.” This final rule does not have federalism implications. It 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 various levels of government, as specified in Executive Order 13132. This final rule authorizes pre-existing State rules. Thus, Executive Order 13132 does not apply to this final rule.

#### 6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (59 FR 22951, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This final rule does not have tribal implications, as specified in Executive Order 13175 because EPA retains its authority over Indian Country. EPA specifically solicited additional comment on the proposed rule from tribal officials and no tribe commented on this action. Thus, Executive Order 13175 does not apply to this final rule.

#### 7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets EO 13045 (62 F.R. 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it approves a state program.

#### 8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This final 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” as defined under Executive Order 12866.

#### 9. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 12(d) (15 U.S.C. 272), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This final rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

#### 10. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order (EO) 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income

populations in the United States. EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. This final rule does not affect the level of protection provided to human health or the environment because this rule authorizes pre-existing State rules which are equivalent to, and no less stringent than existing federal requirements.

#### 11. Congressional Review Act

The Congressional Review Act (CRA), 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 will submit 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).

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: December 16, 2008.

**Elin D. Miller,**

*Regional Administrator, Region 10.*

[FR Doc. E8–30516 Filed 12–22–08; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 312

[EPA–HQ–SFUND–2008–0873; FRL–8755–6]

RIN 2050–AG47

### Amendment to Standards and Practices for All Appropriate Inquiries Under CERCLA

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to amend the Standards and Practices for All Appropriate Inquiries to reference a standard practice recently made available by ASTM International, a widely recognized standards development organization. Specifically, this direct final rule amends the All Appropriate Inquiries Rule to reference ASTM International's E2247-08 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property" and allow for its use to satisfy the statutory requirements for conducting all appropriate inquiries under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

**DATES:** This rule is effective on March 23, 2009, without further notice, unless EPA receives adverse comment by January 22, 2009. If EPA receives such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. [EPA-HQ-SFUND-2008-0873] by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

- *E-mail*: [superfund.docket@epa.gov](mailto:superfund.docket@epa.gov).
- *Fax*: 202-566-9744
- *Mail*: Superfund Docket,

Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.

- *Hand Delivery*: EPA Headquarters West Building, Room 3334, located at 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The EPA Headquarters Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time, Monday through Friday, excluding federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-SFUND-2008-0873. Please reference Docket number EPA-HQ-SFUND-2008-0873 when submitting your comments.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information

claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>

*Docket:* You may use EPA Dockets at <http://www.epa.gov/edocket/> to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket identification number.

All documents in the docket are listed in the <http://www.regulations.gov> index. Certain types of information claimed as CBI, and other information whose disclosure is restricted by statute, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material, such as ASTM International's E2247-08 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property" will not be placed in EPA's electronic public docket but will be publicly available only in printed form in the official public docket. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the HQ EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room at this docket facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday,

excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Superfund Docket is (202) 566-9744.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the 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 and Land Revitalization (5105T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0002, 202-566-2774, or [overmeyer.patricia@epa.gov](mailto:overmeyer.patricia@epa.gov).

### Regulated Entities

Today's action offers certain parties the option of using an available industry standard to conduct all appropriate inquiries at certain properties. Parties purchasing large tracts (greater than 120 acres) of forested land and parties purchasing large rural properties may use the ASTM E2247-08 standard practice to comply with the all appropriate inquiries requirements of CERCLA. Today's rule does not require any entity to use this standard. Any party who wants to claim protection from liability under CERCLA may follow the regulatory requirement of the All Appropriate Inquiries Final Rule at 40 CFR part 312, or use the ASTM E1527-05 Standard Practice for Phase I Environmental Site Assessments to comply with the all appropriate inquiries provision of CERCLA.

Entities potentially affected by this action, or who may choose to use the newly referenced ASTM standard to perform all appropriate inquiries, include public and private parties who, as bona fide prospective purchasers, contiguous property owners, or innocent landowners, are purchasing large tracts of forested lands or large rural properties 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 on a property that consists of large tracts of forested land or a large rural property with a brownfields grant awarded under CERCLA section 104(k)(2)(B)(ii) 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 North American Industry Classification

System (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 .....	926110, 925120
Federal Government .....	925120, 921190, 924120

The list of potentially affected entities in the above table may not 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 not 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. This Action
- IV. Administrative Requirements

#### I. Statutory Authority

This direct final rule amends the All Appropriate Inquiries Final Rule setting federal standards for the conduct of “all appropriate inquiry” at 40 CFR part 312. The All Appropriate Inquiries Final Rule sets forth standards and practices necessary for fulfilling the requirements of CERCLA section 101(35)(B) as required to obtain CERCLA liability relief and for conducting site characterizations and assessments with the use of brownfields grants per CERCLA section 104(k)(2)(B)(ii).

#### II. Background

On January 11, 2002, President Bush signed the Small Business Liability Relief and Brownfields Revitalization Act (“the Brownfields Amendments”). In general, the Brownfields Amendments to CERCLA provide funds to assess and clean up brownfields sites; clarifies CERCLA liability provisions related to innocent purchasers of contaminated properties; and provides funding to enhance State and Tribal cleanup programs. In part, subtitle B of the Brownfields Amendments revises some of the provisions of CERCLA section 101(35) and limits Superfund liability under section 107 for bona fide prospective purchasers and contiguous property owners, in addition to clarifying the requirements necessary to

establish the innocent landowner defense under CERCLA. The Brownfields Amendments clarified the requirement that parties purchasing potentially contaminated property undertake “all appropriate inquiry” into prior ownership and use of property prior to purchasing the property in order to qualify for protection from CERCLA liability.

The Brownfields Amendments required EPA to develop regulations establishing standards and practices for how to conduct all appropriate inquiries. EPA promulgated regulations that set standards and practices for all appropriate inquiries on November 1, 2005 (70 FR 66070). In the final regulation, EPA referenced, and recognized as compliant with the final rule, the ASTM E1527–05 “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process. Therefore, the final rule (40 CFR part 312) allows for the use of the ASTM E1527–05 standard to conduct all appropriate inquiries, in lieu of following requirements included in the final rule.

Since EPA promulgated the All Appropriate Inquiries Final Rule setting standards and practices for the conduct of all appropriate inquiries, ASTM International published a new Phase I site assessment standard specifically tailored to conducting site assessments of large tracts of rural and forestland property. This standard, ASTM E2247–08, “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property,” was reviewed by EPA, in response to a request for its review by ASTM International, and determined by EPA to be compliant with the requirements of the All Appropriate Inquiries Final Rule.

Today’s direct final rule amends the All Appropriate Inquiries Final Rule to allow the use of the recently revised ASTM standard, E2247–08, for conducting all appropriate inquiries, as required under CERCLA for establishing the innocent landowner defense, as well as qualifying for the bona fide prospective purchaser and contiguous property owner liability protections.

With today’s action, EPA is establishing that, parties seeking liability relief under CERCLA’s landowner liability protections, as well as recipients of brownfields grants for conducting site assessments, will be considered to be in compliance with the requirements for all appropriate inquiries, as required in the Brownfields Amendments to CERCLA, if such parties comply with the procedures provided in

the ASTM E2247–08, “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property.” EPA determined that it is reasonable to promulgate this clarification as a direct final rule that is effective immediately, rather than delay promulgation of the clarification until after receipt and consideration of public comments. EPA made this determination based upon the Agency’s finding that the ASTM E2247–08 standard is compliant with the All Appropriate Inquiries Final Rule and the Agency sees no reason to delay allowing for its use in conducting all appropriate inquiries. The Agency notes that today’s action does not require any party to use the ASTM E2247–08 standard. Any party conducting all appropriate inquiries to comply with the CERCLA requirements at section 101(35)(B) for the innocent landowner defense, the contiguous property owner liability protection, or the bona fide prospective purchaser liability protection may continue to follow the provisions of the All Appropriate Inquiries Final Rule at 40 CFR part 312 or use the ASTM E1527–05 Standard.

In taking today’s action, the Agency is allowing for the use of an additional recognized standard or customary business practice, in complying with a federal regulation. Today’s action does not require any person to use the newly recognized standard. Today’s action merely allows for the use of ASTM International’s E2247–08 “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property” for those parties purchasing relatively large tracts of rural property or forestlands who want to use the ASTM E2247–08 standard in lieu of the following specific requirements of the All Appropriate Inquiries Final Rule or the ASTM E1527–05 standard.

The Agency notes that there are no significant differences between the regulatory requirements and the two ASTM standards. To facilitate an understanding of the slight differences between the All Appropriate Inquiries Final Rule, the ASTM E1527–05 Phase I Environmental Site Assessment Standard and the ASTM E2247–08 “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property,” as well as the applicability of the E2247–08 standard to certain types of properties, EPA developed, and placed in the docket for today’s action, the document “Comparison of All Appropriate Inquiries Regulation and

ASTM E2247–08 Phase I Environmental Site Assessment Process for Forestland or Rural Property.” The document provides a comparison of the federal regulation and the two ASTM standards.

By taking today’s action, EPA is fulfilling the intent and requirements of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113.

### III. This Action

EPA is publishing this direct final rule without prior proposal because the Agency wants to provide additional flexibility for grant recipients or other entities who may benefit from the use of the ASTM E2247–08 standard. In addition, the Agency views this as a noncontroversial action and anticipates no adverse comment. We believe that today’s action is reasonable and can be promulgated without consideration of public comment because it allows for the use of a tailored standard developed by a recognized standards developing organization and that was reviewed by EPA and determined to be equivalent to the Agency’s final rule. Today’s action does not disallow the use of the previously recognized standard (ASTM E1527–05) and it does not alter the requirements of the previously promulgated final rule. In addition, today’s action will potentially increase flexibility for some parties who may make use of the new standard, without placing any additional burden on those parties who prefer to use either the ASTM E1527–05 standard or follow the requirements of the All Appropriate Inquiries Final Rule when conducting all appropriate inquiries.

Although we view today’s action as noncontroversial, in the “Proposed Rules” section of today’s **Federal Register**, we are publishing a separate proposed rule containing the clarification summarized above. That proposed rule will serve as the proposal to be revised if adverse comments are received. If EPA does not receive adverse comment in response to this direct final rule prior to January 22, 2009, this rule will become effective on March 23, 2009, without further notice. If EPA receives adverse comment, we will publish a timely withdrawal of this direct final rule in the **Federal Register**, informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time and before January 22, 2009.

## IV. Administrative Requirements

### A. Executive Order 12866: Regulatory Planning and Review

This action is not a “significant regulatory action” under the terms of Executive Order (EO) 12866, entitled “Regulatory Planning and Review” (58 FR 51735 (October 4, 1993)), and is therefore not subject to review by the Office of Management and Budget under the EO.

### B. Paperwork Reduction Act

Today’s action includes no information collection requirements and therefore no associated burdens. The action will not result in any change to the current regulation other than to allow for the use of an additional standard.

### C. Regulatory Flexibility Act

Today’s direct rule is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. (5 U.S.C. 601 *et seq.*). Although the rule is subject to the APA, the Agency has invoked the “good cause” exemption under 5 U.S.C. 553(b), therefore it is not subject to the notice and comment requirements under the APA or any other statute. Today’s action does not change the current regulatory status quo and it has no economic impact. Therefore, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act.

### D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This action merely allows for the use of a voluntary consensus standard. This action allows the newly recognized standard to be used by any entity. The action imposes no new regulatory requirements and will result in no additional burden to any entity. Thus, this rule is not subject to the requirements of sections 202 or 205 of the Unfunded Mandates Reform Act. This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action imposes no enforceable duty on any State, local or tribal governments or the private sector.

### E. Executive Order 13132: Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255 (August 10, 1999)), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the EO to include regulations that 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.”

This direct final rule does not have federalism implications. It 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 EO 13132. Thus, EO 13132 does not apply to this rule.

### F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in EO 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249 (November 9, 2000)). Today’s action does not change any current regulatory requirements and therefore does not impose any impacts upon tribal entities. Thus, EO 13175 does not apply to this action.

### G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to EO 13045, “Protection of Children From Environmental Health Risks and Safety Risks” (62 FR 19885 (April 23, 1997)), because it is not economically significant as defined in EO 12866, and EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

### H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to EO 13211, entitled “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 EO 12866.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does involve technical standards. Therefore, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) apply. The NTTAA was signed into law on March 7, 1996 and, among other things, directs the National Institute of Standards and Technology (NIST) to bring together federal agencies as well as state and local governments to achieve greater reliance on voluntary standards and decreased dependence on in-house standards. It states that use of such standards, whenever practicable and appropriate, is intended to achieve the following goals: (a) Eliminate the cost to the government of developing its own standards and decrease the cost of goods procured and the burden of complying with agency regulation; (b) provide incentives and opportunities to establish standards that serve national needs; (c) encourage long-term growth for U.S. enterprises and promote efficiency and economic competition through harmonization of standards; and (d) further the policy of reliance upon the private sector to supply Government needs for goods and services. The Act requires that federal agencies adopt private sector standards, particularly those developed by standards developing organizations (SDOs), wherever possible in lieu of creating proprietary, non-consensus standards.

Today’s action is compliant with the spirit and requirements of the NTTAA. Today’s action allows for the use of the ASTM International standard known as Standard E2247–08 and entitled

Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property.”

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898, entitled “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629 (Feb. 16, 1994)), establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this direct final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. Today’s action does not change any regulatory requirements or impose any new requirements.

#### *K. Congressional Review Act*

The Congressional Review Act, 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. 5 U.S.C. 801 *et seq.* 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**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This rule is effective on March 23, 2009, unless EPA receives adverse comment by January 22, 2009.

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

Administrative practice and procedure, Hazardous substances.

Dated: December 17, 2008.

**Stephen L. Johnson**,  
*Administrator.*

■ For the reasons set out in the preamble, title 40 chapter I of the code

of Federal Regulations is amended as follows:

■ Title 40 Chapter I is amended as follows:

#### **PART 312—[AMENDED]**

■ 1. The authority citation for part 312 continues to read as follows:

**Authority:** Section 101(35)(B) of CERCLA, as amended, 42 U.S.C. 9601(3)(B).

#### **Subpart B—Definitions and References**

■ 2. Section 312.11 is amended by adding paragraph (b) to read as follows:

#### **§ 312.11 References.**

\* \* \* \* \*

(b) The procedures of ASTM International Standard E2247–08 entitled “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property.” This standard is available from ASTM International at <http://www.astm.org>, 1–610–832–9585.

[FR Doc. E8–30536 Filed 12–22–08; 8:45 am]

**BILLING CODE 6560–50–P**

## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 73**

[DA 08–2672; MB Docket No. 08–199; RM–11486]

### **Television Broadcasting Services; Kearney, NE**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission grants a petition for rulemaking filed by Pappas Telecasting of Central Nebraska, L.P., permittee of station KHGI–DT, to substitute DTV channel 13 for post-transition DTV channel 36 at Kearney, Nebraska.

**DATES:** This rule is effective January 22, 2009.

**FOR FURTHER INFORMATION CONTACT:** Joyce Bernstein, Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission’s *Report and Order*, MB Docket No. 08–199, adopted December 5, 2008, and released December 8, 2008. The full text of this document is available for public inspection and copying during normal business hours in the FCC’s Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC, 20554. This document