

**SUPPORTING STATEMENT FOR
EPA INFORMATION COLLECTION REQUEST NUMBER 2144.01
STANDARDS AND PRACTICES FOR ALL APPROPRIATE INQUIRIES
(PROPOSED RULE) (40 CFR PART 132)**

JULY 20, 2004

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1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title and Number of the Information Collection

This Information Collection Request (ICR) is entitled “Standards and Practices for All Appropriate Inquiries (Proposed Rule) (40 CFR part 132)” EPA ICR Number 2144.01.

1(b) Short Characterization

The Environmental Protection Agency (EPA) is proposing Federal standards and practices for conducting all appropriate inquiries (AAI), as required under Section 101(35)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The proposed rule would establish specific regulatory requirements and standards for conducting AAI into the previous ownership, uses, and environmental conditions of a property for the purposes of meeting the AAI provisions necessary to qualify for certain landowner liability protections under CERCLA. The standards and practices proposed today also would be applicable to persons conducting site characterizations and assessments with the use of grants awarded under CERCLA §104(k)(2)(B).

The information collection requirements in the proposed rule apply to any person who may seek the landowner liability protections of CERCLA as an innocent landowner, contiguous property owner, or bona fide prospective purchaser, as defined in the proposed rule. Many of these activities are already undertaken by prospective purchasers under the ASTM E1527-2000 standard, and are usual and customary business practice.¹ In addition, the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. No. 107-118, 115 stat. 2356, “the Brownfields Amendments”) established the ASTM E1527-2000 standard as the interim standard for AAI, and thus as one requirement for qualifying as an innocent landowner, bona fide purchaser, or contiguous property owner during the interim period. This ICR presents incremental burden associated with the following activities that are in addition to the customary and usual business practices in the ASTM E1527-2000 standard:

- Documentation of recorded environmental cleanup liens.
- Documentation of the reason(s) for any difference in the purchase price and the fair market value of the subject property.
- Documentation of the degree of obviousness of a release or threatened release of hazardous substances on, at, in or to the subject property.

¹ The process most prevalently used for conducting AAI is the process developed by the American Society for Testing and Materials (ASTM) and entitled E1527, Phase I Environmental Site Assessment Process.

A smaller number of respondents are expected to incur burden for more activities as they transition from transaction screens to the AAI activities.

In Sections 1 through 5 of this ICR, EPA presents a comprehensive description of the new information collection requirements that would result from the AAI proposed rule. In Section 6, EPA estimates the total annual hour and cost burden to respondents (*i.e.*, any firm, regardless of the nature of its operations, involved in a commercial real estate transaction and wanting to avail itself of CERCLA liability defense) associated with these new paperwork requirements.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need and Authority for the Collection

EPA is proposing to set Federal standards and practices for the conduct of AAI. This regulatory action was initiated in response to legislative amendments to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The Brownfields Amendments require EPA to develop regulations establishing standards and practices for how to conduct AAI and promulgate standards within two years of enactment of the Amendments.

2(b) Practical Utility and Users of the Data

The proposed rule does not contain any requirements to notify or submit information to EPA or any other government entity. It does, however, require that the environmental professional, on behalf of the property owner, document the results of the AAI in a written report. The purpose of this written report is to ensure that any person claiming one of the CERCLA landowner liability protections be able to show documentation that all appropriate inquiries were conducted in compliance with the Federal regulations, should such documentation be required by a court of law.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Nonduplication

None of the new information required by the proposed rule is duplicative of any information required by the existing CERCLA regulations.

3(b) Public Notice

In compliance with the Paperwork Reduction Act of 1995, EPA has issued a public notice in the Federal Register [ADD FR NOTICE DATE AND CITATION]. The public comment period extends through [ENTER DATE]. To assist the public in commenting on the proposal, EPA raised a number of issues in the preamble to the proposed rule and asked for the public to comment on them. At the end of the comment period, EPA will review public comments received in response to the notice and will address comments received, as appropriate.

3(c) Consultations

EPA incorporated stakeholder input throughout development of the proposed rule by engaging in a negotiated rulemaking. EPA initiated the negotiated rulemaking process by identifying appropriate stakeholder groups and soliciting advice and input from public and private sector users of similar standards. Once EPA determined, with stakeholder input, that the negotiated rulemaking process was appropriate, the Agency identified and published in the Federal Register (68 FR 10675) a potential list of interests, requesting comment on the list of interests and stakeholders that should be included in the process. Following receipt of public comments to that notice and conduct of a public hearing to gain input, EPA established a negotiated rulemaking advisory committee under the provisions of the Federal Advisory Committee Act (FACA). The advisory committee included a balanced membership representing the various interests identified either by EPA or by public commenters as having a significant stake in the outcome of the rulemaking. The Agency then published in the Federal Register a notice announcing the establishment of the Negotiated Rulemaking Committee on All Appropriate Inquiries (the Negotiated Rulemaking Committee) on April 7, 2003 (68 FR 16747).

The committee was composed of 25 members and each member of the committee represented a specific stakeholder interest. EPA had one seat on the committee, and that Agency member represented the Federal government's own set of interests. A neutral facilitator assisted the Negotiated Rulemaking Committee by applying proven consensus building techniques to the Committee's activities.

All meetings of the Negotiated Rulemaking Committee were open public meetings. Members of the public, including representatives from organizations not represented on the Committee were welcomed to observe Committee discussions during each meeting. All written products developed by the Committee were made available to the public on EPA's website and in the Agency's rulemaking docket. Time was set aside during each meeting of the Committee to hear comments from the public. Members of the public also had the opportunity to provide written comments to the negotiated rulemaking committee on the topics considered and discussed by the Committee. The openness of the negotiated rulemaking process allowed for continued review of the Committee proceedings by the public and allowed the Committee to give full consideration to input offered by the public during its deliberations.

The Negotiated Rulemaking Committee for All Appropriate Inquiries conducted six multiple-day meetings over the course of an eight-month period, beginning in April 2003. The Committee reached consensus on the provisions of a proposed rule during its meeting in November 2003. The consensus of all Committee members was confirmed in December 2003 through approval of the facilitator's summary of that meeting, including the text of the consensus-based proposed regulatory language. The Agency, consistent with the intent of the Negotiated Rulemaking Act and in compliance with the Committee's ground rules, is using the Committee's consensus regulatory language as the basis of the proposed rule.

EPA has requested public comments on the proposed rule. Public comments will be incorporated into the ICR supporting the final rule, as appropriate.

3(d) Effects of Less Frequent Collection

The proposed rule requires that a report of AAI be prepared only once for a property transaction. This one-time report preparation is necessary to ensure that any person claiming one of the CERCLA landowner liability protections be able to show documentation that all appropriate inquiries were conducted in compliance with the CERCLA statutory provisions, should such documentation be required by a court of law.

3(e) General Guidelines

This ICR adheres to the guidelines stated in the Paperwork Reduction Act of 1995, OMB's implementing regulations, EPA's ICR Handbook, and other applicable OMB guidance.

3(f) Confidentiality

As discussed above, no reports of information must be submitted to EPA or any other agency; therefore there should be no concerns associated with confidentiality.

3(g) Sensitive Questions

No questions of a sensitive nature are included in the information collection requirement associated with the proposed rule.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents and SIC/NAICS Codes

The following is a list of North American Industry Classification System (NAICS) codes associated with industries most likely affected by the information collection requirements covered in this ICR. Other industries not listed in the exhibit may also be affected.

Industry Category	NAICS Code
Manufacturing	31-33
Wholesale Trade	42
Retail Trade	44-45
Finance and Insurance	52
Real Estate	531
Professional, Scientific and Technical Services	541
Accommodation and Food Services	72
Repair and Maintenance	811
Personal and Laundry Services	812
State, Local and Tribal Government	N/A

Respondents are property purchasers or environmental professionals, as defined in §312.10 of the proposed rule. EPA's Brownfields Grant recipients were included in the total volume of respondents.

4(b) Information Requested

Under 40 CFR part 312, EPA is proposing standards and practices for AAI. To qualify for liability protection from CERCLA, persons must follow the standards and practices listed under proposed Sections 312.20 through 312.31. These standards and practices, and the data items and activities associated with each, are described in the following paragraphs.

(1) Interviews with past and present owners, operators, and occupants

Section 312.23 of the proposed rule contains requirements for interviews with past and present owners, operators, and occupants. EPA also intends this proposed provision to be used to help ensure that the information obtained from the interviews provides sufficient information, in conjunction with the results of all other inquiries, to allow the environmental professional to render an opinion with regard to conditions at the property that may be indicative of releases or threatened releases of hazardous substances (and pollutants, contaminants, petroleum and controlled substances, if applicable).

The proposed rule would require the environmental professional's inquiry to include interviewing the current owner and occupant of the subject property. In addition, the proposal provides that the inquiry of the environmental professional should include interviews of additional individuals, including current and past facility managers with relevant knowledge of the property, past owners, occupants, or operators of the subject property, or employees of current and past occupants of the subject property as necessary to meet the proposed objectives and in accordance with the proposed performance standards. A primary objective of the interviews portion of AAI is to obtain information regarding the current and past ownership and uses of the property, and

obtain information regarding the conditions of the property. Although the proposed rule does not include specific questions for the interviews, it requires that the interviews be conducted in a manner that achieves the proposed objectives and performance factors.

In the case of properties where there may be more than one owner or occupant, or many owners or occupants, the proposed rule would require the inquiry to include interviews of major occupants and those occupants that are using, storing, treating, handling or disposing (or are likely to have used, stored, treated, handled, or disposed) of hazardous substances (or pollutants, contaminants, petroleum, and controlled substances, as applicable) on the property. The specific occupants to be interviewed and the total number of occupants to be interviewed is left up to the best judgment of the environmental professional. The proposed rule would require that the interview portion of AAI be conducted to achieve the proposed objectives and performance factors in proposed §§312.20(d) and (e).

In the case of abandoned properties, the proposed rule would require the inquiry of the environmental professional to include interviews with one or more owners or occupants of neighboring or nearby properties. The conduct of AAI includes interviewing at least one owner or occupant of a neighboring property to obtain information regarding past owners or uses of property. The proposed rule defines an abandoned property as a “property that can be presumed to be deserted, or an intent to relinquish possession or control can be inferred from the general disrepair or lack of activity thereon such that a reasonable person could believe that there was an intent on the part of the current owner to surrender rights to the property.” As is the case with interviews conducted with current and past owners and occupants of the property, interview questions should be developed prior to the conduct of the interviews, and tailored to gather information to achieve the rule’s objectives and performance factors. The data items gathered in and respondent activities associated with interviews with past and present owners, operators, and occupants are presented below.

Data Item:

- Documentation of information regarding the current and past ownership and uses of the property and condition of the property.

Respondent Activities:

- Interview the current owner and occupant of the subject property;
- Interview one or more of the following persons:
 - Current and past facility managers with relevant knowledge of uses and physical characteristics of the property;
 - Past owners, operators, or occupants of the subject property;

- Employees of current and past occupants of the subject property; and
 - In the case of abandoned properties, as defined in §312.10, one or more (as necessary) owners or occupants of neighboring or nearby properties from which it appears possible to have observed uses of, and releases at, such abandoned properties.
- Document results of all interviews.

(2) Reviews of historical sources of information

The proposed rule, at proposed §312.24, would require the inquiry of the environmental professional to include a review of historical documents and records for the subject property that document the ownership and use of the property for a period of time as far back in the history of the property as it can be shown that the property contained structures, or from the time the property was first used for residential, agricultural, commercial, industrial, or government purposes. Historical documents and records, among others, may include chain of title documents, land use records, aerial photographs of the property, fire insurance maps, and records held at local historical societies. Records must be searched for information on the property covering a time period as far back in history as there is documentation that the property contained structures or was placed into use of some form. Historical documents and information should be reviewed to obtain information relevant to all of the proposed objectives and performance standards of proposed §§312.20(d) and (e). If a search of historical sources of information results in an inability of the inquiry to document previous uses and occupancies of the property as far back in history as there is documentation that the property contained structures or was placed into use of some form and such information cannot be addressed through the implementation of other inquiries or regulatory criteria, then the unavailable information should be documented as a data gap to the inquiries. The proposed requirements of §312.20(f) and §312.21(c)(2) are applicable to all instances in the AAI that result in data gaps.

The proposed rule would not require that any specific type of historical information be collected. The proposed rule would allow the purchaser or environmental professional to use professional judgment as to what type of historical documentation may provide the most useful information about a property's ownership, uses, and potential environmental conditions. EPA is proposing that the review of historical documents requirement allow the purchaser and environmental professional to use their judgment, in accordance with generally accepted good commercial and customary standards and practices, in locating the best available sources of historical information and reviewing such sources for information necessary to comply with the rule's objectives and performance factors. The data items gathered and respondent activities encountered in reviews of historical sources of information are presented below.

Data Item:

- Documentation of previous uses and occupancies of the property as indicated in historical documents.

Respondent Activities:

- Search for and review historical documents and records including, but not limited to, aerial photographs, fire insurance maps, building department records, chain of title documents, and land use records; and
- Document the previous uses and occupancies of the property.

(3) Search for recorded environmental cleanup liens

For purposes of this rule, recorded environmental cleanup liens are encumbrances on property for the recovery of incurred cleanup costs on the part of a state, tribal, or Federal government agency or other third party. Recorded environmental cleanup liens often provide an indication that environmental conditions currently or previously existed on a property that may have included the release or threatened release of a hazardous substance. The existence of an environmental cleanup lien should be used as an indicator of potential environmental concerns and as a basis for further investigation into the potential existence of ongoing or continued releases or threatened releases of hazardous substances on, at, in, or to the subject property.

EPA is proposing at §312.25 that the search for recorded environmental cleanup liens be performed either by the purchaser or through the inquiry of the environmental professional. The search for such liens may not necessarily require the expertise of an environmental professional and therefore may be more efficiently or more cost-effectively performed by the purchaser or an agent of the purchaser. Such liens may be included as part of the chain of title documents or may be recorded in some other format by state or local government agencies. If such information is collected by the purchaser or other agent of the purchaser, the proposed rule would require that any information on environmental cleanup liens that is collected on the part of the purchaser be provided to the environmental professional. The environmental professional can then make use of such information during the conduct of the AAI and when rendering conclusions or opinions regarding the environmental conditions of the property. The data items and respondent activities for a search for recorded environmental cleanup liens are presented below.

Data Item:

- Documentation of any environmental liens on the property.

Respondent Activities:

- Search for the existence of environmental cleanup liens against the property that are filed or recorded under Federal, tribal, state or local law; and
- Document existence of any environmental cleanup liens on the property.

(4) Review Federal, state, tribal, and local government records

The proposed rule, at proposed §312.26, would require that Federal, state, tribal, and local government records be searched for information necessary to achieve the proposed objectives and performance factors, including information regarding the use and occupancy of and the environmental conditions at the subject property and conditions of nearby or adjoining properties that could have an impact upon the environmental conditions of the subject property. The proposed rule, at §312.26(b), requires that Federal, tribal, state, and local government records be searched for information indicative of environmental conditions at the subject property. The types of government records or data bases of records searched should include:

- Government records of reported releases or threatened releases at the subject property, including previously conducted site investigation reports.
- Government records of activities, conditions, or incidents likely to cause or contribute to releases or threatened releases, including records documenting regulatory permits that were issued to current or previous owners or operators at the property for waste management activities and government records that identify the subject property as the location of landfills, storage tanks, or as the location for generating and handling activities for hazardous substances, pollutants, contaminants, petroleum or controlled substances.
- CERCLIS records – EPA’s Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) database contains general information on sites across the nation and in the U.S. territories that have been assessed by EPA, including sites listed on the National Priorities List (NPL). CERCLIS includes information on facility location, status, contaminants, and actions taken at particular sites. CERCLIS also contains information on sites being assessed under the Superfund Program, hazardous waste sites and potential hazardous waste sites.
- Government-maintained records of public risks (if available) – the AAI government records search should include a search for available records documenting public health threats or concerns caused by, or related to, activities currently or previously conducted at the site.

- Emergency Response Notification System (ERNS) records - ERNS is EPA's data base of oil and hazardous substance spill reports. The data base can be searched for information on reported spills of oil and hazardous substances by state.
- Government registries, or publicly available lists of engineering controls, institutional controls, and land use restrictions. The AAI government records search must include a search for registries or publicly available lists of recorded engineering and institutional controls and recorded land use restrictions. Such records may be useful in identifying past releases on, at, in, or to the subject property or identifying continuing environment conditions at the property.

In the case of all the government records listed above, the requirements of this criterion may be met by searching data bases containing the same government records mentioned in the list above that are accessible and available through government entities or private sources. The review of actual records is not necessary, provided that the same information contained in the government records and required to meet the requirements of this criterion and achieve the proposed objectives and performance standards for these regulations is attainable by searching available data bases.

In addition to reviewing government records, or databases of information contained in government records, for information about the subject property, the proposed rule would require that government records for nearby and adjoining properties be reviewed to assess the potential impact to the subject property from hazardous substances and petroleum contamination migrating from contiguous or nearby properties. The proposed rule would require that government records be searched to identify information relative to the proposed objectives and in accordance with the performance factors on: (1) adjoining and nearby properties for which there are governmental records of reported releases or threatened releases (*e.g.*, properties currently listed on the National Priorities List (NPL), properties subject to corrective action orders under the Resource Conservation and Recovery Act (RCRA), properties with reported releases from leaking underground storage tanks); (2) adjoining and nearby properties previously identified or regulated by a government entity due to environmental conditions at a site (*e.g.*, properties previously listed on the NPL, former CERCLIS sites with notices of no further remedial action); and (3) adjoining and nearby properties that have government-issued permits to conduct waste management activities (*e.g.*, facilities permitted to manage RCRA hazardous wastes).

In the case of government records searches for nearby properties, the proposed rule (at §312.26(c)) includes minimum search distances for obtaining and reviewing records or data bases concerning activities and facilities located on nearby properties. For nearby properties, the proposed rule includes proposed minimum search distances (*e.g.*, properties located either within one mile or one half mile of the subject property) for each type of record to be searched to facilitate defining the scope of the records searches. In the case of two types of records, records of RCRA small quantity and large quantity generators and records of registered storage tanks, the AAI search need only identify RCRA generators and storage tanks located on adjoining properties

(the proposal contains no requirement to search for these two types of government records for other nearby properties). The proposed rule would allow for the environmental professional to adjust any or all of the proposed minimum search distances for any of the record types, based upon professional judgment and the consideration of site-specific conditions or circumstances. The proposed rule provides that the environmental professional may consider one or more of the following factors when determining an alternative appropriate search distance:

- The nature and extent of a release;
- geologic, hydrogeologic, or topographic conditions of the subject property and surrounding environment;
- land use or development densities;
- the property type;
- existing or past uses of surrounding properties;
- potential migration pathways (*e.g.*, groundwater flow direction, prevalent wind direction); or
- other relevant factors.

The proposed rule would require environmental professionals to document the rationale for making any modifications to the required minimum search distances included in the proposed regulation. The data items and activities associated with reviews of Federal, state, local and tribal government records are described below.

Data Item:

- Documentation of information indicative of environmental conditions at the subject property; and
- Documentation of instances where alternative search distances are used.

Respondent Activities:

- Search Federal, tribal, state, and local government records for information indicative of environmental conditions at the subject property; and
- Document any environmental information on the property found in these records.

(5) Visually inspect the facility and adjoining properties

(a) *Visual inspections of the subject property*

The proposed rule, at §312.27, would require that a visual on-site inspection be conducted of the subject property. The proposed visual on-site inspection requirements include inspecting the facilities and any improvements on the property, as well as visually inspecting areas on the property where hazardous substances may currently be or in the past may have been used, stored, treated, handled, or disposed of. Included in the proposed rule is a requirement that a visual on-site inspection of the subject property be conducted in all but a few very limited cases and that physical limitations to the visual on-site inspection (*e.g.*, weather conditions, physical obstructions) be documented.

We note that persons conducting AAI with grant money awarded under CERCLA §104(k)(2)(B) must, during the on-site visual inspection, inspect the facilities and any improvements on the property, as well as visually inspect any other areas on the property where hazardous substances may currently be or in the past may have been used, stored, treated, handled, or disposed. In addition, depending on the terms and conditions of the grant or cooperative agreement, the on-site visual inspection requirements could include inspecting the facilities, improvements, and other areas of the property where pollutants, contaminants, petroleum and petroleum products, or controlled substances may currently be or in the past may have been used, stored, treated, handled, or disposed.

The proposed rule would require that where access to the property is not readily available, the purchaser make good faith efforts to gain access to the property. In addition, the proposal notes that the mere refusal of a property owner to allow the purchaser to have access to the property does not constitute an unusual circumstance, absent the making of good faith efforts to otherwise gain access. The proposed rule, at proposed §312.10, would define “good faith” as “the absence of any intention to seek an unfair advantage or to defraud another party; an honest and sincere intention to fulfill one’s obligations in the conduct or transaction concerned.”

In those unusual circumstances where a purchaser or an environmental professional, after good faith efforts, cannot gain access to a property and therefore cannot conduct an on-site visual inspection, the proposed rule would require that the property be visually inspected, or observed, by another method, such as through the use of aerial photography, or be inspected, or observed, from the nearest accessible vantage point, such as the property line or a public road that runs through or along the property. In addition, the proposed rule would require that the AAI report includes documentation of efforts undertaken by the purchaser or the environmental professional to obtain on-site access to the subject property and includes an explanation of why good faith efforts to gain access to subject property were unsuccessful. The proposed rule also would require that the AAI report include documentation of other sources of information that were consulted to obtain information necessary to achieve the proposed objectives and performance factors. This documentation should include comments from the environmental professional who

signs the report, regarding any significant limitations to the ability of the environmental professional to identify conditions indicative of releases or threatened releases on, at, in, or to the subject property, that may arise due to the inability of the purchaser or environmental professional to obtain on-site access to the property. The data items and respondent activities for visual inspections of the subject property are presented below.

Data Item:

- Document results of inspection of the facilities and any improvements on the property, as well as areas on the property where hazardous substances may currently be or in the past may have been used, stored, treated, handled, or disposed of;
- Document any physical limitations to the visual on-site inspection (*e.g.*, weather conditions, physical obstructions);
- In cases where access to the property cannot be obtained, documentation of efforts undertaken by the purchaser or the environmental professional to obtain on-site access to the subject property and includes an explanation of why good faith efforts to gain access to subject property were unsuccessful; and
- In cases where access to the property cannot be obtained, documentation of visual inspection or observation of the property by other methods.

Respondent Activities:

- Visually inspect the facilities and any improvements on the property, as well as areas on the property where hazardous substances may currently be or in the past may have been used, stored, treated, handled, or disposed of;
- Document the results of visual inspections of the property;
- In cases where ready access to the property cannot be obtained, make good faith efforts to obtain access to the property;
- In cases where access cannot be obtained and the property cannot be visually inspected, visually inspect or observe the property by another method, such as through the use of aerial photography or from the nearest accessible vantage point, such as the property line or a public road that runs through or along the property;
- Document efforts to obtain on-site access to the subject property and include an explanation of why good faith efforts to gain access to subject property were unsuccessful; and

- Document other sources of information that were consulted to obtain information necessary to achieve the proposed objectives and performance factors.

(b) *Visual inspections of adjoining properties*

The proposed rule, at proposed §312.27, would require that AAI include visual inspections or observations of properties that adjoin the subject property. Visual inspections of adjoining properties may provide useful information on the potential for the subject property to be affected by migrating contamination from adjoining properties. EPA is proposing that visual observations of adjoining properties be conducted from the subject property's property line, one or more public rights-of-way, or other vantage point (*e.g.*, via aerial photography). Where practicable, a visual on-site inspection is recommended and may provide greater specificity of information. The proposed rule would require that the visual observations of adjoining properties include observing areas where hazardous substances currently may be, or previously may have been, stored, treated, handled, or disposed. Visual inspections or observations of adjoining properties otherwise also should be conducted to achieve the proposed objectives and performance goals for AAI. Physical limitations to the visual inspections or observations of adjoining properties should be noted. The data items and respondent activities for visual inspections of adjoining properties are as follows.

Data Item:

- Documentation of results of visual inspection of adjoining properties and any physical limitations to the visual inspection or observation of the adjoining properties.

Respondent Activities:

- Visually inspect adjoining properties, including observing areas where hazardous substances currently may be, or previously may have been, stored, treated, handled, or disposed; and
- Document results of visual inspections of adjoining properties and any physical limitations to the visual inspections or observations of adjoining properties.

(6) Inclusion of specialized knowledge or experience on the part of the defendant

The proposed rule, at proposed §312.28, would require that AAI include specialized knowledge on the part of the prospective purchaser of the subject property, the area surrounding the subject property, the conditions of adjoining properties, as well as other experience relative to the inquiries that may be applicable to identifying conditions indicative of releases or threatened releases at the subject property. The proposed rule also would require that the results of the inquiries take into account any specialized knowledge related to the property, surrounding areas,

and adjoining properties held by the persons responsible for undertaking the inquiries, including any specialized knowledge on the part of the environmental professional. Each data item and respondent activities associated with inclusion of specialized knowledge is described below.

Data Item:

- Documentation of any of the prospective purchaser's and the environmental professional's specialized knowledge or experience relating to the subject property, the area surrounding the subject property, the conditions of adjoining properties, and other experience relative to the inquiries that may be applicable to identifying conditions indicative of releases or threatened releases at the subject property.

Respondent Activity:

- Document any specialized knowledge or experience of the prospective purchaser.
- (7) **Relationship of purchase price to the value of the property if the property was not contaminated**

The proposed rule, at §312.29, would require that the purchaser of the property consider whether or not the purchase price paid for the property reflects the fair market value of the property, if the property were not contaminated. The proposed rule would require that the purchaser consider whether any differential between the purchase price and the value of the property is due to the presence of releases or threatened releases of hazardous substances at the property.

The proposed rule does not require that a real estate appraisal be conducted to achieve compliance with this criterion. The required determination may be made by comparing the price paid for a particular property to prices paid for similar properties located in the same vicinity as the subject property, or by consulting a real estate expert familiar with properties in the general locality and who may be able to provide a comparability analysis. Significant differences in the purchase price and market value of a property should be noted and the reasons for any differences should be noted. Data items and respondent activities for determining the relationship of purchase price to value of property are listed below.

Data Item:

- Documentation of any difference between purchase price and the fair market value of the property, assuming the property is not contaminated and whether any difference is due to the presence of releases or threatened releases of hazardous substances at the property.

Respondent Activities:

- Determine prices paid for similar properties located in the same vicinity of the subject property or contact a real estate expert who can perform a comparison; and
- Compare and document the fair market value of the property to the purchase price paid and note any differences and possible reasons for the difference.

(8) Document commonly known or reasonably ascertainable information about the property

The proposed rule, at §312.30, would require landowners, EPA's Brownfields Grant recipients, and environmental professionals conducting the AAI investigation to consider commonly known information about the potential environmental conditions at a property. Commonly known information generally is information available in the local community that may be ascertained from the owner or occupant of a property, members of the local community, including owners or occupants of neighboring properties to the subject property, local or state government officials, local media sources, and local libraries and historical societies. Much of this information may be incidental to other information collected during the inquiries, but such information may be valuable to identifying conditions indicative of releases or threatened releases at the subject property.

The collection and use of commonly known information about a property should be done in connection with the collection of all other required information for the purposes of achieving the proposed objectives and performance factors contained in proposed §312.20. EPA recommends that persons undertaking AAI make efforts to collect information on the subject property from a variety of sources, including sources located in the community in which the property is located, to the extent necessary to achieve the objectives and performance factors of §312.20(d) and (e). Opinions included in the AAI report should be based upon a balance of all information collected. All information collected, including information available from the local community, should be considered in the final evaluation. The data item and respondent activities associated with documentation of commonly known or reasonably ascertainable information about the property are listed below.

Data Item:

- Documentation of commonly known or reasonable ascertainable information about potential environmental conditions at the property.

Respondent Activities:

- During the course of collection of information under other AAI activities, document information about environmental conditions at the property; and

- Consider the information in the final evaluation of environmental conditions at the property.

(9) Document degree of obviousness of the presence of or likely presence of contamination at the property and the ability to detect the contamination by appropriate investigation

The proposed rule, at §312.31, would require that persons conducting the AAI activities consider all the information collected during the conduct of the inquiries in totality to ascertain the potential presence of a release or threatened release at the property. Persons conducting AAI, following the collection of all required information, should be able to assess whether or not an obvious conclusion may be drawn that there is a release or threatened release of hazardous substances (or other substances, pollutants or contaminants) on, at, in, or to the property. In addition, the proposed rule would require parties to consider whether or not the totality of information collected prior to acquiring the property indicates that the parties should be able to detect a release or threatened release on, at, in, or to the property. Listed below are the respondent activities associated with documenting the degree of obviousness of the presence of or likely presence of contamination at the property and the ability to detect the contamination by appropriate investigation.

Data Item:

- No data items are collected specifically for this activity.

Respondent Activities:

- Consider all of the information collected in the above AAI investigation activities;
- Assess whether or not an obvious conclusion may be drawn that there is a release or threatened release of hazardous substances on, at, in, or to the property; and
- Consider whether the information gathered indicates that parties should be able to detect a release or threatened release on, at, in, or to the property.

(10) Prepare a report of all appropriate inquiries

The proposed rule would require that a written report documenting the results of the AAI include an opinion of an environmental professional as to whether the AAI conducted identified conditions indicative of releases or threatened releases of hazardous substances on, at, in or to the subject property. The proposed rule also would require that the report identify data gaps in the information collected that affect the ability of the environmental professional to render such an opinion or determine the significance of data gaps.

The proposed rule, at §312.21(d), would require that the environmental professional who conducts or oversees the AAI sign the written report. The data item and respondent activities associated with preparation of a report of AAI are described below.

Data Item:

- Written and signed report documenting the results of AAI activities.

Respondent Activities:

- Write a report summarizing the documentation and results of AAI activities;
- Identify in the report any data gaps that affect the ability of an environmental professional to render an opinion on conditions that indicate a release or threatened release of hazardous substances on, at, in, or to the subject property; and
- Sign the report and include the two statements required in §312.21(d).

5. THE INFORMATION COLLECTED—AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

5(a) Agency Activities

There are no Agency activities associated with the information collection requirements for new practices and standards for AAI.

5(b) Collection Methodology and Management

All of the information collected under the proposed listing would be maintained in a written report kept by the purchaser for purposes of documenting that the AAI activities were conducted for establishing an innocent landowner defense or for the purposes of claiming the bona fide prospective purchaser or contiguous property owner liability protection, if needed.

5(c) Small Entity Flexibility

For the purposes of assessing the impacts of the proposed rule on small entities, small entity is defined as: (1) a small business that is defined by the Small Business Administration by category of business using the North American Industrial Classification System (NAICS) and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a

small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Because all non-residential property transactions could be affected by the proposed rule, large numbers of small entities could be affected to some degree. However, EPA estimates that the effects, on the whole, will not be significant for small entities. The “Economic Impact Analysis of the Proposed All Appropriate Inquiries Regulation (EIA)” estimated that for the majority of small firms the cost of conducting a Phase I ESA would increase, on average, by \$47.² For the small percentage of entities transitioning from transaction screens to Phase I ESAs, the average cost increase per ESA would be \$1,454. Annualizing the incremental cost per property transaction over 10 years at a seven percent discount rate, produces an estimate for the average annual cost increase per establishment per property transaction. For the majority of small entities, the average annual cost increase per establishment per property transaction would be \$7. For the small percentage of properties transitioning from transaction screens to Phase I ESAs, the average annual cost increase per establishment per property transaction would be \$207. Thus, the cost impact to small entities is not estimated to be significant. A more detailed summary of the analysis of the potential impacts of the proposed rule to small entities is included in the EIA.

Although the proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless considered impacts to small entities in the development of the rule. As described in Section II.F of the preamble, EPA developed the proposed rule using a negotiated rulemaking committee. The interests of small entities, including small businesses and small communities, were represented on the Negotiated Rulemaking Committee for All Appropriate Inquiries. Committee members representing small entities, including representatives from small environmental services firms and representatives from organizations representing small and rural communities, participated in each meeting of the Committee. The proposed rule includes provisions that are the direct result of input from these representatives to the Committee.

5(d) Collection Schedule

Under the proposed rule, persons and businesses purchasing commercial property or any property that will be used for commercial purposes and who may, after purchasing the property, want or need to claim protection from CERCLA liability for releases or threatened releases of hazardous substances will have to perform and document AAI and prepare a written report before purchase of the property. The environmental professional who conducts or oversees AAI must sign the report and include two statements, as proposed in §312.21(d).

² In the EIA, the average incremental cost per ESA is estimated as a range. The incremental cost presented in this ICR represents the upper bound of the estimated range.

6. ESTIMATING THE HOUR AND COST BURDEN OF THE COLLECTION

6(a) Estimating Respondent Burden Hours

Many of the activities included in the AAI rule are part of customary and usual business practices. The activities that would be required under the proposed rule are much the same activities as those currently undertaken when conducting due diligence in accordance with the commonly used ASTM E1527-2000 Phase I Environmental Site Assessment Standard. The ASTM E1527-2000 standard is widely and routinely used as a due diligence tool for commercial property transactions. As described in the EIA, persons and businesses have been performing Phase I ESAs using the ASTM standard for years for the purposes of securing a mortgage and obtaining environmental insurance, as well as to qualify for the CERCLA innocent landowner defense. Therefore, many of the activities included in the proposed rule are activities that are part of standard customary and usual business practices and do not represent incremental costs or burdens to the regulated community.

Although the most common AAI process conducted as part of typical commercial real estate transactions is the current ASTM E1527 Phase I Environmental Site Assessment Standard, this standard is not used for assessing all commercial properties. For properties where a purchaser has reason to believe that property is not contaminated a less stringent and less costly assessment tool often was used in the past. This process, often called a “transaction screen” may involve only a site visit and a search for and review of property-specific documents and some government records. The “transaction screen” often was deemed sufficient for undeveloped properties or properties where a prospective buyer has reason to believe that no adverse environmental conditions exist at the site. The process that was most prevalently used to conduct transaction screens for commercial properties is the ASTM E1528 standard.

As part of the Brownfields Amendments to CERCLA, Congress established interim standards for AAI and provided that the interim standards will remain in effect until EPA promulgates final federal standards. For properties purchased after May 31, 1997, the interim standard established by Congress is the current ASTM E1527 standard. Since January 11, 2002, any prospective property owner seeking to qualify for the innocent landowner defense, the contiguous property owner liability protection, or to qualify as a bona fide prospective purchaser must conduct AAI using the ASTM E1527-2000 standard prior to acquiring a property. The less stringent transaction screen (ASTM E1528) is not an interim standard and does not meet the requirements for obtaining the CERCLA liability protections.

In Exhibit 1, EPA estimates the respondents’ incremental hourly burden associated with the new paperwork requirements that would result from standards and practices included in the proposed rule that go beyond the customary and usual business practices of the current ASTM E1527-2000 standard. Exhibit 2 estimates the respondents’ incremental hourly burden associated with the new paperwork requirements that would result from the proposed rule for those parties currently using the transaction screen (ASTM E1528) to assess property prior to purchase.

Both exhibits include burden hours (total and by labor type) per respondent, as well as the overall burden hours for all respondents.

In an effort to estimate the labor hour burden and costs per respondent more accurately, we separated Phase I ESAs into individual labor activities and estimated the labor time and O&M costs associated with each labor activity. Each of the activities, except reading the regulation, is performed every time a Phase I ESA is conducted. Therefore, the number of responses per year covered under this ICR is the number of Phase I ESAs performed annually.

6(b) Estimating Respondent Costs

EPA estimates the annual respondent costs associated with the new paperwork requirements in Exhibits 1 and 2. These costs are based on the cost of labor and operation and maintenance (O&M).

Labor Costs

For purposes of this analysis, EPA estimates an average hourly respondent labor cost (including fringe and overhead) of \$67.00 for managerial staff, \$51.90 for technical staff, and \$27.60 for clerical staff. As discussed in the economic impact analysis for the proposed rule, the unit labor cost by occupation was calculated using the median national wage rate from the Bureau of Labor Statistics (BLS) 2002 national employment and wage estimates. The BLS estimates are based on the *Occupational Employment Statistics Survey by Occupation*.³ The rates are expressed in 2003 dollars using the BLS employment cost index for wages and salaries in services. The rates are loaded with fringe at 39 percent (the BLS average national fringe estimate) and overhead at 59 percent of total compensation.⁴

Using the total burden hours discussed in Section 6(a) and the hourly wage rates outlined in this section, Exhibits 1 and 2 illustrate the labor costs associated with the information collection requirements covered in this ICR.

³ The Bureau of Labor Statistics (BLS) 2002 national employment and wage data from the *Occupational Employment Statistics Survey by Occupation* is available at <http://www.bls.gov/news.release/ocwage.t01.htm>. For the purpose of this ICR, EPA used specific labor categories as defined by the BLS. The managerial labor category corresponds to the *environmental engineer* labor category. The technical staff labor category corresponds to the *environmental scientist and specialist* (including health) labor category. The clerical staff labor category corresponds to the *administrative assistant* (secretaries, except legal, medical, and executive) labor category.

² The fringe benefits factor of 39 percent was calculated using the BLS data from *Employer Cost for Employee Compensation, Civilian Workers in Private Industry* (December 2002), now available at http://www.bls.gov/news.release/archives/ecec_03182003.pdf. The overhead factor was calculated using the data from the *7th Annual Government Contractor Industry Survey: Pulse of Vital Industry*, Grant Thornton, 2001. The derived overhead factor of 59 percent represents a weighted average factor and accounts for the variation in overhead factors across companies of different sizes.

Capital Costs

Capital costs usually include any produced physical good needed to provide the needed information, such as machinery, computers, and other equipment. EPA does not anticipate that respondents will incur capital costs in carrying out the information collection requirements covered in this ICR.

Operation & Maintenance Costs

O&M costs are those costs associated with a paperwork requirement incurred continually over the life of the ICR. They are defined by the Paperwork Reduction Act of 1995 as “the recurring dollar amount of costs associated with O&M or purchasing services.” For this ICR, O&M costs include incidental photocopying/reproducing and mailing costs. These O&M costs are shown in Exhibits 1 and 2.

6(c) Estimating Agency Hour and Cost Burden

As stated earlier, there are no Agency activities associated with the new information collection requirements for AAI standards and practices. All information collected during an environmental site assessment and the prepared written report are to be kept by the respondent. Thus, there is no Agency burden or cost associated with this proposed rule.

6(d) Estimating the Annual Respondent Universe and Total Hour and Cost Burden

In this section, EPA first describes the respondent universe affected by the new information collection requirements resulting from the proposed standards and practices for AAI. Exhibit 1 displays the burden associated with transitioning from the ASTM E1527-2000 standard to the standards in the AAI proposed rule, and Exhibit 2 displays the burden incurred in transitioning to the proposed rule requirements from transaction screens. EPA then estimates the annual aggregate burden to respondents under the proposed rule.

The universe estimates and assumptions used in the development of this ICR are based on the economic impact analysis prepared for the proposed rule.

Respondent Universe

Table 1 presents the annual number of respondents transitioning to the proposed AAI standards and practices from the ASTM Phase I ESAs and from transaction screens. It shows that EPA expects an average annual total of 271,669 respondents to perform the AAI Phase I ESA under the proposed rule. Of these, 8,150 respondents are expected to transition from

transaction screens and 263,519 from Phase I ESAs.⁵ EPA's Brownfields Grant recipients were included in the total volume of Phase I ESAs.

Table 1
Respondents Subject to Information Collection Requirements of the Proposed All
Appropriate Inquiries Regulation

Year	Transition from Phase I ESAs	Transition from Transaction Screens	Total Number of Respondents
2004	255,770	7,910	263,680
2005	263,442	8,148	271,590
2006	271,346	8,392	279,738
Annual Average	263,519	8,150	271,669

The following paragraphs discuss these universe estimates in relation to the proposed rule and existing customary and usual business practices under the ASTM standards.

A. Annual Respondent Hour and Cost Burden under the Proposed Rule for Transitioning from ASTM E1527

Based on the universe data presented in Table 1, EPA estimated respondent burden associated with all of the new paperwork requirements under the proposed rule in Exhibit 1. A discussion of the assumptions used in developing these burden estimates follows.

(1) Reading the Regulations

EPA estimates that on average 263,519 respondents will transition from the ASTM E1527-2000 standard and be subject to the new paperwork requirements under the proposed rule. For the purpose of this ICR, we assumed that only the personnel involved in performing Phase I ESA would read the regulation. Data on the average number of employees performing Phase I ESA per firm in environmental site assessment industry are not readily available. We, therefore, used various data sources in the analysis and developed an estimate of 12,500 respondents reading the regulation for 0.5 hours each.⁶

⁵ EPA assumed that three percent of Phase I ESAs are transitioning from transaction screens. The EIA prepared for the proposed rule provides more detail about the method used for calculating the number of respondents.

⁶ As of the writing of this ICR, Environmental Data Resources (EDR), Inc. is likely the only firm collecting data characterizing the Phase I ESA industry on a continuing and systematic basis at the national level. The most recent publicly available source of information on Phase I ESA industry is the *Benchmarking Survey of Environmental Professionals: Nuts and Bolts of the Phase I Process* conducted by EDR in 2002, which shows that

(2) Interviews with Property Owner(s), Operators, and Occupants (312.23)

Under proposed section 312.23, the AAI must include interviews with current owner and occupant of the subject property since they will have information about current property uses, and may have information about past uses as well. The proposed rule states that interviews with past owners and occupants, current and past facility managers, and employees of current and past occupants of the subject property should be conducted to the extent necessary to learn the full history of the subject property. The proposed rule's requirements do not differ significantly from the ASTM E1527-2000 standard. Therefore, the proposed rule is not expected to add any additional burden.

Under proposed section 312.23, the AAI conducted on abandoned properties must include interviews with owners and occupants of neighboring or nearby properties where owners and occupants may have observed uses of or releases at the abandoned property.⁷ The ASTM E1527-2000 does not impose specific requirements or give guidance with respect to who should be interviewed when the subject property is abandoned. The proposed rule explicitly requires that only owners and occupants of neighboring properties be interviewed, and does not require interviews with past owners, occupants, and operators. The proposed rule's requirement eliminates the hour burden associated with the search for past owners and occupants of the subject property, and adds an incremental burden associated with the search for owners and occupants of neighboring properties. Locating owners and occupants of neighboring properties is expected to be less time consuming than locating past owners, operators, and occupants of the subject property. Therefore, in the cases of abandoned properties, the hour burden for conducting interviews under the proposed rule is likely to be slightly lower than under the current ASTM standard.⁸

only 10 percent of the firms performed 250 to 500 Phase I ESAs, and only 11 percent of the firms performed 500 or more ESAs in 2002. The EDR survey results indicate that conducting Phase I ESAs is not the primary activity for most of the firms surveyed. Therefore, the first step in the analysis was to derive the average annual revenues per firm generated from performing Phase I ESAs. Using the EDR data on the distribution of surveyed firms by volume of Phase I ESAs performed in 2001 and the EDR estimate of the average price per Phase I ESA in 2001, we estimated that in 2001, firms generated, on average, \$0.5 million from Phase I ESA business. The next step in the analysis was to estimate the average revenues per employee. Using the US Census Bureau data, we estimated that the average revenue per employee in environmental consulting services industry in 2001 was approximately \$94,000. To calculate the average number of employees involved in performing Phase I ESAs, we divided the estimated average annual revenues per firm generated from Phase I ESA business by the estimated average annual revenues per employee. We estimated that firms have, on average, five employees performing Phase I ESAs. We then multiplied this estimate by the EDR's estimate of firms in the ESA industry to calculate the total number of respondents that would read the AAI regulation ($5 * 7,500 = 37,500$). Annualizing the total number of respondents over three years, we calculated that 12,500 respondent would read the regulation annually ($37,500 / 3 = 12,500$).

⁷ EPA estimates that 15 percent of all commercial properties subject to the AAI requirements are abandoned ($263,519 * 0.15 = 39,528$).

⁸ It should be noted that this ICR presents the incremental burden associated with the activities that go beyond the customary and usual business practices in the ASTM E1527-2000 standard. Because the ICR does not

(3) Reviews of Historical Sources of Information (312.24)

Under both the current ASTM E1527-2000 standard and the proposed AAI regulation, the environmental professional is required to perform a search for historical documents and records to determine the ownership and use of the subject property. The review may include among others, chain of title documents, land use records, and aerial photographs. These activities are considered customary and usual business practices and will not add any incremental burden to the 263,519 respondents that would have been performing a Phase I ESA.

(4) Search for Recorded Environmental Cleanup Liens (312.25)

Under both the current ASTM E1527-2000 standard and the proposed AAI regulation, a search for environmental cleanup liens on the subject property is required. EPA assumed that the property purchaser will choose the least costly option and perform the search himself and provide the results to the environmental professional for documentation in the report. EPA estimates that the incremental hourly burden ranges from 0.5 hours for undeveloped and residential property to 1 hour for commercial and industrial property. For purposes of this ICR, EPA expects all 263,519 respondents transitioning from the ASTM E1527-2000 standard to the proposed AAI standard to incur a weighted average of 0.85 hours each year.⁹ These burden hours are for documentation of search results, as the search itself is already customary and usual business practice.

(5) Review Federal, State, and Local Government Records (312.26)

Under both the current ASTM E1527-2000 standard and the proposed AAI regulation, the environmental professional is required to review Federal, state, and local government records regarding the use and occupancy of and the environmental conditions at the subject property and conditions of nearby or adjoining properties. Reviewing and documenting these government records is considered customary and usual business practice and will not add any additional burden to the respondents.

(6) Visual Inspection of the Facility and Adjoining Properties (312.27)

Under both the current ASTM E1527 standard and the proposed AAI regulation, the environmental professional is required to visit the site. The person must visually inspect and document the subject property as well as adjoining properties. As these activities are considered customary and usual business practices, the respondents will have no additional hourly burden due to the proposed regulation.

present the net burden under the proposed rule relative to the ASTM E1527-2000 standard, a decrease in the hour burden associated with the interview requirement for abandoned properties is not reflected in this ICR.

⁹ EPA estimates that 31 percent of all properties subject to the AAI requirements is undeveloped or residential. The rest of the properties are used for commercial or industrial purposes.

(7) Inclusion of Specialized Knowledge or Experience on the Defendant (312.28)

Under both the current ASTM E1527-2000 standard and the proposed AAI regulation, the environmental professional is required to include specialized knowledge or experience relating to the subject property. As these activities are considered customary and usual business practices, the respondents will have no additional hourly burden due to the proposed regulation.

(8) Relationship of Purchase Price to Value of the Property (312.29)

The proposed AAI regulation would require that the purchaser of the property consider whether or not the purchase price paid for the property reflects the fair market value of the property if the property was not contaminated. The purchaser may consult with a real estate expert to determine what price other similar properties have sold at. EPA estimates that 15 percent (i.e., $15\% \times 263,519 = 39,528$) of all respondents transitioning from Phase I ESAs to the AAI standard will perform these needed activities. 39,528 respondents will incur an average of 0.5 hours additional burden to comply with the proposed regulation. EPA assumed that the potential purchaser would investigate the purchase price of the property, an activity already performed under the ASTM standard, and then provide the information to the environmental professional for documentation. Therefore, the incremental burden is associated with the environmental professional's documentation of the information.

(9) Commonly Known or Reasonably Ascertainable Information on the Property (312.30)

Under both the current ASTM E1527-2000 standard and the proposed AAI regulation, the environmental professional conducting the AAI must consider and document any commonly known or reasonably ascertainable information on the property that may have been discovered incidentally. Documenting these findings are considered customary and usual business practices and will not add additional hourly burden to the respondents.

(10) Degree of Obviousness of the Presence of or Likely Presence of Contamination (312.31)

Under the proposed AAI regulation, the environmental professional conducting the AAI is required to consider all the information collected during the course of inquiries in totality. The environmental professional must determine whether or not an obvious conclusion may be drawn on the presence of contamination on the subject property. EPA estimates that 15 percent of all respondents transitioning from Phase I ESAs to the AAI standard (i.e., $15\% \times 263,519 = 39,528$) will perform these newly required activities. EPA estimates that the incremental hourly burden ranges from 0.5 hours for undeveloped and residential property to 1 hour for commercial and industrial property. For purposes of this ICR, EPA expects 39,528 respondents to incur a weighted average of 0.85 hours each year.

(11) Prepare a Report of All Appropriate Inquiries (312.21)

Under both the current ASTM E1527-2000 standard and the proposed AAI regulation, a written report detailing the documentation and results of AAI activities must be prepared. In addition, the report must identify any data gaps in the information that affect the ability of the environmental professional to render an opinion. Documenting the AAI findings are considered customary and usual business practices and will not add additional hourly burden to the respondents. Under the proposed AAI regulation, the written report must be at least reviewed by an environmental professional. The review of the written report by the environmental professional is consistent with the current industry practices. EPA estimates that all 263,519 respondents will be required to perform these activities under the proposed rule.

EXHIBIT 1
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST
PROPERTIES TRANSITIONING FROM ASTM E1527-2000

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity							Total Hours and Costs		
	Managerial \$67.00/ hr Hours	Technical \$51.90/ hr Hours	Clerical \$27.60/ hr Hours	Response Hours	Labor Cost	Capital Costs	O&M Costs	Number of Responses	Total Hours/ Year	Total Cost/ Year
Reading the Regulations										
Read the regulations	0.25	0.25	0.00	0.50	\$29.73	\$0.00	\$0.00	12,500	6,250	\$371,563
Subtotal	0.25	0.25	0.00	0.50	\$29.73	\$0.00	\$0.00	12,500	6,250	\$371,563
Interviews with the Property Owners, Operators, and Occupants (312.23)										
Interview the subject property owner, occupant(s), and/or operators	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	223,991	0	\$0
Interview owners and occupants of neighboring and/or nearby properties	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	39,528	0	\$0
Document results of all interviews	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Subtotal	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	varies	0	\$0
Reviews of Historical Sources of Information (312.24)										
Search for and review historical documents and records including, but not limited to, aerial photographs, fire insurance maps, building department records, chain of title documents, and land use records	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Document the previous uses and occupancies of the property	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Subtotal	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Search for Recorded Environmental Cleanup Liens (312.25)										
Document the results of the search for environmental cleanup liens filed or recorded under, federal, tribal, state or local law	0.00	0.85	0.00	0.85	\$43.86	\$0.00	\$0.00	263,519	222,674	\$11,557,943
Document existence of any environmental cleanup liens on the property	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Subtotal	0.00	0.85	0.00	0.85	\$43.86	\$0.00	\$0.00	263,519	222,674	\$11,557,943
Review Federal, State, and Local Government Records (312.26)										
Search federal, tribal, state, and local government records for information indicative of environmental conditions at the subject property	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Document any environmental information on the property found in these records	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Subtotal	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0

EXHIBIT 1 (continued)
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST
PROPERTIES TRANSITIONING FROM ASTM E1527-2000

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity							Total Hours and Costs		
	Managerial \$67.00/ hr Hours	Technical \$51.90/ hr Hours	Clerical \$27.60/ hr Hours	Response Hours	Labor Cost	Capital Costs	O&M Costs	Number of Responses	Total Hours/ Year	Total Cost/ Year
Visually Inspect the Facility and Adjoining Properties (312.27)										
Visual inspections of the subject property										
Visually inspect the facilities and any improvements on the property, as well as areas on the property where hazardous substances may currently be or in the past may have been used, stored, treated, handled, or disposed of	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Document the results of visual inspections of the property	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
In cases where ready access to the property cannot be obtained, make good faith efforts to obtain access to the property	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
In cases where access cannot be obtained and the property cannot be visually inspected, visually inspect or observe the property by another method, such as through the use of aerial photography or from the nearest accessible vantage point, such as the property line or a public road that runs through or along the property	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Document of efforts to obtain on-site access to the subject property and include an explanation of why good faith efforts to gain access to subject property were unsuccessful	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Documentation other sources of information that were consulted to obtain information necessary to achieve the proposed objectives and performance factors	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Visual inspections of adjoining properties										
Visually inspect adjoining properties, including observing areas where hazardous substances currently may be, or previously may have been, stored, treated, handled, or disposed	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Document results of visual inspections of adjoining properties and any physical limitations to the visual inspections or observations of adjoining properties	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Subtotal	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0

EXHIBIT 1 (continued)
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST
PROPERTIES TRANSITIONING FROM ASTM E1527-2000

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity							Total Hours and Costs		
	Managerial \$67.00/ hr Hours	Technical \$51.90/ hr Hours	Clerical \$27.60/ hr Hours	Response Hours	Labor Cost	Capital Costs	O&M Costs	Number of Responses	Total Hours/ Year	Total Cost/ Year
Inclusion of Specialized Knowledge or Experience on the Part of the Defendant (312.28)										
Document any specialized knowledge or experience on the part of the defendant	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Subtotal	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Relationship of Purchase Price to the Value of the Property if the Property was not Contaminated (312.29)										
Document the explanation(s) for any difference in the purchase price and the market value of the subject property	0.00	0.50	0.00	0.50	\$25.95	\$0.00	\$0.00	39,528	19,764	\$1,025,752
Subtotal	0.00	0.50	0.00	0.50	\$25.95	\$0.00	\$0.00	39,528	19,764	\$1,025,752
Commonly Known or Reasonably Ascertainable Information About the Property (312.30)										
During the course of collection of information under other all appropriate inquiries activities, document information about environmental conditions at the property	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Consider the information in the final evaluation of environmental conditions at the property	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Subtotal	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Degree of Obviousness of the Presence of or Likely Presence of Contamination at the Property and the Ability to Detect the Contamination by Appropriate Investigation (312.31)										
Consider all of the information collected in the all appropriate inquiries investigation activities	0.00	0.40	0.00	0.40	\$20.76	\$0.00	\$0.00	39,528	15,811	\$820,598
Document the degree of obviousness of a release or threatened release of hazardous substances on, at, in, or to the property	0.00	0.45	0.00	0.45	\$23.10	\$0.00	\$0.00	39,528	17,590	\$913,093
Subtotal	0.00	0.85	0.00	0.85	\$43.86	\$0.00	\$0.00	39,528	33,401	\$1,733,691

EXHIBIT 1 (continued)
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST
PROPERTIES TRANSITIONING FROM ASTM E1527-2000

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity							Total Hours and Costs		
	Managerial \$67.00/ hr Hours	Technical \$51.90/ hr Hours	Clerical \$27.60/ hr Hours	Response Hours	Labor Cost	Capital Costs	O&M Costs	Number of Responses	Total Hours/ Year	Total Cost/ Year
Prepare a Report of All Appropriate Inquiries (312.21)										
Write a report detailing the documentation and results of all appropriate inquiries activities	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Identify in the report any data gaps that affect the ability of an environmental professional to render an opinion on conditions that indicate a release or threatened release of hazardous substances on, at, in, or to the subject property	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Sign the report and include the two statements required in §312.21(d)	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
Subtotal	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	263,519	0	\$0
TOTAL	varies	varies	varies	varies	varies	varies	varies	varies	282,089	\$14,688,949

Note: In the cases where the AAI requirements are different for different respondents, the respondents and/or labor hours cannot be summed up across activities. In those cases, totals are denoted as “varies.” For example, the proposed AAI regulation requires interviews with the current owner/occupants of the subject property in the cases where the property is not abandoned (223,991 respondents) and interviews with neighboring property owners/occupants in the cases where the subject property is abandoned (39,528 respondents).

B. Annual Respondent Hour and Cost Burden under the Proposed Rule for Transitioning from Transaction Screens

Based on the universe data presented in Table 1, EPA estimated respondent burden associated with all of the new paperwork requirements under the proposed rule in Exhibit 2. A discussion of the assumptions used in developing these burden estimates follows.

(1) Reading the Regulations

EPA estimates that 8,150 respondents will be subject to the new paperwork requirements under the proposed rule. EPA assumed that the majority of firms affected by the rule likely perform many more Phase I ESAs every year than transaction screens. Therefore, we assumed that respondents will read regulations in order to perform AAI when transitioning from the ASTM standard for Phase I ESA and, to avoid double counting, placed all of the burden hours for reading the regulations under Exhibit 1.

(2) Interviews with Property Owner(s), Operators, and Occupants (312.23)

Under proposed section 312.23, the respondents seeking CERCLA liability protection will be required to conduct interviews with property owner(s) and occupants. The ASTM E1528 standard for transaction screens requires the environmental professional to interview the owner or occupant. **The AAI proposal requires the interview with current owner and occupant of the subject property since they will have information about current property uses, and may have information about past uses as well. In the case of abandoned properties, the AAI Phase I ESA must include interviews with owners and occupants of neighboring or nearby properties where owners and occupants may have observed uses of or releases at the abandoned property.**¹⁰ EPA estimates that all 8,150 respondents transitioning from transaction screens will incur an additional 0.6 hours to conduct interviews and document the findings.

(3) Reviews of Historical Sources of Information (312.24)

The proposed regulation requires AAI to include a search for historical documents and records to determine the ownership and use of the subject property. The review may include among others things, chain of title documents, land use records, and aerial photographs. These activities are not required by the transaction screen standard and will add approximately 3.7 hours of additional burden to the 8,150 respondents transitioning from transaction screens.

(4) Search for Recorded Environmental Cleanup Liens (312.25)

¹⁰ EPA estimates that 15 percent of all commercial properties subject to the AAI requirements are abandoned.

These activities are not required by the transaction screen standard and, therefore, EPA expects that all 8,150 respondents to incur an average of 2.0 hours of additional burden each year. EPA assumed that the property purchaser will choose the least costly option and perform the search himself and provide the results to the environmental professional for documentation in the report.

(5) Review Federal, State, and Local Government Records (312.26)

Under both the current ASTM E1528 standard and the proposed AAI regulation, the environmental professional is required to review government records regarding the use and occupancy of and the environmental conditions at the subject property and conditions of nearby or adjoining properties. However, the review is required to be more thorough under the proposed AAI regulation and therefore add additional hourly burden. EPA expects all 8,150 respondents transitioning from transaction screens to incur an incremental burden of 5.4 hours per year.

(6) Visual Inspection of the Facility and Adjoining Properties (312.27)

Both the transaction screen and the proposed AAI regulation require site visits. However, the AAI regulation specific requirements for visual inspections of both the facility and adjoining properties add additional hourly burden to the respondents. EPA estimates that all 8,150 respondents transitioning from the transaction screens will incur an incremental burden of 2.9 hours each year.

(7) Inclusion of Specialized Knowledge or Experience on the Defendant (312.28)

The proposed regulation would require persons conducting AAI to include specialized knowledge or experience relating to the subject property in the written report. These newly required activities performed by all 8,150 respondents transitioning from transaction screens each year will add approximately 3.7 hours of burden.

(8) Relationship of Purchase Price to Value of the Property (312.29)

The proposed AAI regulation would require that the purchaser of the property consider whether or not the purchase price paid for the property reflects the fair market value of the property if the property was not contaminated. The purchaser may consult with a real estate expert to determine what price other similar properties have sold at. EPA estimates that 15 percent of respondents transitioning from transaction screens, total of 1,223 respondents, will incur an average of 0.5 hours additional burden to comply with the proposed regulation.¹¹ EPA

¹¹ This requirement is expected to affect only the properties with a perceived risk of contamination or likely contamination, where the market has already discounted the price for the perceived risk. EPA assumes that 15 percent of the properties will be affected. The assumption is based on the EDR estimate that between 10 and 15 percent of Phase I ESAs lead to Phase II ESAs. Since it is uncertain what type of properties (in terms of size and

assumed that the potential purchaser would investigate the purchase price of the property, an activity already performed under the ASTM standard, and then provide the information to the environmental professional for documentation. Therefore, the incremental burden is associated with the environmental professional's documentation of the information.

(9) Commonly Known or Reasonably Ascertainable Information on the Property (312.30)

Under the proposed AAI regulation, the environmental professional conducting the AAI must consider and document any commonly known or reasonably ascertainable information on the property that may have been discovered incidentally. Documenting these findings will add 2.3 hours of additional hourly burden to the all 8,150 respondents transitioning from transaction screens.

(10) Degree of Obviousness of the Presence of or Likely Presence of Contamination (312.31)

Under the proposed AAI regulation, the environmental professional conducting the AAI is required to consider all the information collected during the course of inquiries in totality. The environmental professional must determine whether or not an obvious conclusion may be drawn on the presence of contamination on the subject property. EPA expects 1,223 respondents to incur one additional hour of burden each year due to these activities.¹²

(11) Prepare a Report of All Appropriate Inquiries (312.21)

Under the proposed AAI regulation, a written report detailing the documentation and results of AAI activities must be prepared. In addition, the report must identify any data gaps in the information that affect the ability of the environmental professional to render an opinion. Under the proposed AAI regulation, the written report must be at least reviewed and supervised by an environmental professional. EPA estimates that all 8,150 respondents that are transitioning from transaction screens will be required to perform these activities under the proposed rule and incur 4.4 additional hours of burden.

type) the additional requirement may impact, EPA assumes that all properties are equally likely to be affected.

¹² Based on the EDR estimate of the likelihood that a Phase I will lead to a more comprehensive environmental site investigation, EPA assumed that 15 percent of properties would be affected by this requirement. Since it is uncertain what type of properties (in terms of size and type) the additional requirement may impact, EPA assumed that all properties are equally likely to be affected.

EXHIBIT 2
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST
PROPERTIES TRANSITIONING FROM TRANSACTION SCREENS

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity							Total Hours and Costs		
	Managerial \$67.00/ hr Hours	Technical \$51.90/ hr Hours	Clerical \$27.60/ hr Hours	Response Hours	Labor Cost	Capital Costs	O&M Costs	Number of Responses	Total Hours/ Year	Total Cost/ Year
Reading the Regulations¹										
Read the regulations	0.25	0.25	0.00	0.50	\$29.73	\$0.00	\$0.00	0	0	\$0
Subtotal	0.25	0.25	0.00	0.50	\$29.73	\$0.00	\$0.00	0	0	\$0
Interviews with the Property Owners, Operators, and Occupants (312.23)										
Interview the subject property owner, occupant(s), and/or operators	0.00	0.30	0.00	0.30	\$15.57	\$0.00	\$0.00	6,928	2,078	\$107,869
Interview owners and occupants of neighboring and/or nearby properties	0.00	0.30	0.00	0.30	\$15.57	\$0.00	\$0.00	1,223	367	\$19,042
Document results of all interviews	0.00	0.30	0.00	0.30	\$15.57	\$0.00	\$0.00	8,150	2,445	\$126,896
Subtotal	0.00	varies	0.00	varies	varies	\$0.00	\$0.00	varies	4,890	\$253,807
Reviews of Historical Sources of Information (312.24)										
Search for and review historical documents and records including, but not limited to, aerial photographs, fire insurance maps, building department records, chain of title documents, and land use records	0.00	2.00	0.00	2.00	\$103.80	\$0.00	\$22.00	8,150	16,300	\$1,025,270
Document the previous uses and occupancies of the property	0.00	1.70	0.00	1.70	\$88.23	\$0.00	\$0.00	8,150	13,855	\$719,075
Subtotal	0.00	3.70	0.00	3.70	\$192.03	\$0.00	\$22.00	8,150	30,155	\$1,744,345
Search for Recorded Environmental Cleanup Liens (312.25)										
Document the results of the search for environmental cleanup liens filed or recorded under, federal, tribal, state or local law	0.00	2.00	0.00	2.00	\$103.80	\$0.00	\$0.00	8,150	16,300	\$845,970
Document existence of any environmental cleanup liens on the property	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	0	0	\$0
Subtotal	0.00	2.00	0.00	2.00	\$103.80	\$0.00	\$0.00	8,150	16,300	\$845,970
Review Federal, State, and Local Government Records (312.26)										
Search federal, tribal, state, and local government records for information indicative of environmental conditions at the subject property	0.00	4.40	0.00	4.40	\$228.36	\$0.00	\$22.00	8,150	35,860	\$2,040,434
Document any environmental information on the property found in these records	0.00	1.00	0.00	1.00	\$51.90	\$0.00	\$0.00	8,150	8,150	\$422,985
Subtotal	0.00	5.40	0.00	5.40	\$280.26	\$0.00	\$22.00	8,150	44,010	\$2,463,419

¹ Burden hours for reading the regulations are included with respondents in Exhibit 1.

EXHIBIT 2 (continued)
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST
PROPERTIES TRANSITIONING FROM TRANSACTION SCREENS

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity							Total Hours and Costs		
	Managerial \$67.00/ hr Hours	Technical \$51.90/ hr Hours	Clerical \$27.60/ hr Hours	Response Hours	Labor Cost	Capital Costs	O&M Costs	Number of Responses	Total Hours/ Year	Total Cost/ Year
Visually Inspect the Facility and Adjoining Properties (312.27)										
Visual inspections of the subject property										
Visually inspect the facilities and any improvements on the property, as well as areas on the property where hazardous substances may currently be or in the past may have been used, stored, treated, handled, or disposed of	0.00	0.50	0.00	0.50	\$25.95	\$0.00	\$0.00	8,150	4,075	\$211,493
Document the results of visual inspections of the property	0.00	0.50	0.00	0.50	\$25.95	\$0.00	\$0.00	8,150	4,075	\$211,493
In cases where ready access to the property cannot be obtained, make good faith efforts to obtain access to the	0.00	0.90	0.00	0.90	\$46.71	\$0.00	\$0.00	8,150	7,335	\$380,687
cannot be visually inspected, visually inspect or observe the property by another method, such as through the use of aerial photography or from the nearest accessible vantage point, such as the property line or a public road that runs through or along the property	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	8,150	0	\$0
Document of efforts to obtain on-site access to the subject property and include an explanation of why good faith efforts to gain access to subject property were unsuccessful	0.00	0.00	0.00	0.00	\$0.00	\$0.00	\$0.00	8,150	0	\$0
Documentation other sources of information that were consulted to obtain information necessary to achieve the proposed objectives and performance factors	0.00	0.50	0.00	0.50	\$25.95	\$0.00	\$0.00	8,150	4,075	\$211,493
Visual inspections of adjoining properties										
Visually inspect adjoining properties, including observing areas where hazardous substances currently may be, or previously may have been, stored, treated, handled, or disposed	0.00	0.25	0.00	0.25	\$12.98	\$0.00	\$0.00	8,150	2,038	\$105,787
Document results of visual inspections of adjoining properties and any physical limitations to the visual inspections or observations of adjoining properties	0.00	0.25	0.00	0.25	\$12.98	\$0.00	\$0.00	8,150	2,038	\$105,787
Subtotal	0.00	2.90	0.00	2.90	\$150.52	\$0.00	\$0.00	8,150	23,636	\$1,226,740

EXHIBIT 2 (continued)
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST
PROPERTIES TRANSITIONING FROM TRANSACTION SCREENS

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity							Total Hours and Costs		
	Managerial \$67.00/ hr Hours	Technical \$51.90/ hr Hours	Clerical \$27.60/ hr Hours	Response Hours	Labor Cost	Capital Costs	O&M Costs	Number of Responses	Total Hours/ Year	Total Cost/ Year
Inclusion of Specialized Knowledge or Experience on the Part of the Defendant (312.28)										
Document any specialized knowledge or experience on the part of the defendant	0.00	3.70	0.00	3.70	\$192.03	\$0.00	\$22.00	8,150	30,155	\$1,744,345
Subtotal	0.00	3.70	0.00	3.70	\$192.03	\$0.00	\$22.00	8,150	30,155	\$1,744,345
Relationship of Purchase Price to the Value of the Property if the Property was not Contaminated (312.29)										
Document the explanation(s) for any difference in the purchase price and the market value of the subject property	0.00	0.50	0.00	0.50	\$25.95	\$0.00	\$0.00	1,223	612	\$31,737
Subtotal	0.00	0.50	0.00	0.50	\$25.95	\$0.00	\$0.00	1,223	612	\$31,737
Commonly Known or Reasonably Ascertainable Information About the Property (312.30)										
During the course of collection of information under other all appropriate inquiries activities, document information about environmental conditions at the property	0.00	1.30	0.00	1.30	\$67.47	\$0.00	\$0.00	8,150	10,595	\$549,881
Consider the information in the final evaluation of environmental conditions at the property	0.00	1.00	0.00	1.00	\$51.90	\$0.00	\$0.00	8,150	8,150	\$422,985
Subtotal	0.00	2.30	0.00	2.30	\$119.37	\$0.00	\$0.00	8,150	18,745	\$972,866
Degree of Obviousness of the Presence of or Likely Presence of Contamination at the Property and the Ability to Detect the Contamination by Appropriate Investigation (312.31)										
Consider all of the information collected in the all appropriate inquiries investigation activities	0.00	0.50	0.00	0.50	\$25.95	\$0.00	\$0.00	1,223	612	\$31,737
Document the degree of obviousness of a release or threatened release of hazardous substances on, at, in, or to the property	0.00	0.50	0.00	0.50	\$25.95	\$0.00	\$0.00	1,223	612	\$31,737
Subtotal	0.00	1.00	0.00	1.00	\$51.90	\$0.00	\$0.00	1,223	1,224	\$63,474

EXHIBIT 2 (continued)
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST
PROPERTIES TRANSITIONING FROM TRANSACTION SCREENS

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity							Total Hours and Costs		
	Managerial \$67.00/ hr Hours	Technical \$51.90/ hr Hours	Clerical \$27.60/ hr Hours	Response Hours	Labor Cost	Capital Costs	O&M Costs	Number of Responses	Total Hours/ Year	Total Cost/ Year
Prepare a Report of All Appropriate Inquiries (312.21)										
Write a report detailing the documentation and results of all appropriate inquiries activities	2.00	1.00	0.00	3.00	\$185.90	\$0.00	\$42.00	8,150	24,450	\$1,857,385
Identify in the report any data gaps that affect the ability of an environmental professional to render an opinion on conditions that indicate a release or threatened release of hazardous substances on, at, in, or to the subject property	0.00	0.90	0.00	0.90	\$46.71	\$0.00	\$0.00	8,150	7,335	\$380,687
Sign the report and include the two statements required in §312.21(d)	0.50	0.00	0.00	0.50	\$33.50	\$0.00	\$0.00	8,150	4,075	\$273,025
Subtotal	2.50	1.90	0.00	4.40	\$266.11	\$0.00	\$42.00	8,150	35,860	\$2,511,097
TOTAL	varies	varies	varies	varies	varies	varies	varies	varies	205,587	\$11,857,800

Note: In the cases where the AAI requirements are different for different respondents, the respondents and/or labor hours cannot be summed up across activities. In those cases, totals are denoted as “varies.”

6(e) Bottom Line Hour and Cost Burden**Respondent Tally**

EPA presents the total annual respondent burden and cost for the new information collection requirements associated with the proposed rule in Exhibits 1 and 2. Exhibit 3 shows that the burden under the proposed rule is estimated to be 487,676 hours and \$26,546,749 annually.

Agency Tally

There are no Agency activities associated with the new information collection requirements. Thus, there is no Agency hour or cost burden associated with this rule.

6(f) Reasons for Change In Burden

This is a new proposed rule, therefore there are no existing information collection requirements and no change in burden.

EXHIBIT 3**TOTAL ANNUAL ESTIMATED RESPONDENT BURDEN AND COST**

	Total Capital Costs	Total O&M Costs	Total Hours per Year	Total Labor Costs per Year	Total Costs per Year
Properties Transitioning From ASTM E1527	\$0	\$0	282,089	\$14,688,949	\$14,688,949
Properties Transitioning From Transaction Screens	\$0	\$880,200	205,587	\$10,977,600	\$11,857,800
TOTAL	\$0	\$880,200	487,676	\$25,666,549	\$26,546,749

6(g) Public Burden Statement

There is no public reporting burden from the new information collection requirements in the proposed rule. The average hourly recordkeeping burden from the new requirements ranges between one and 25 hours per respondent per year, depending on whether the respondent is transitioning from the ASTM E1527-2000 or ASTM E1528. This burden includes time for reading the regulations, performing and documenting AAIs, and keeping the report, as specified.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID No. SFUND-2004-0001, which is available for public viewing at the OSWER docket in the EPA Docket Center at 1301 Constitution Avenue, Washington, DC. The EPA Docket Center Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number for the Reading Room is (202) 566-0270. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the 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 ID number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Office for EPA. Please include the EPA Docket ID No. (RCRA-2003-0004).