

EPA Withdraws All Appropriate Inquiries Rule

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On October 29, EPA published in the *Federal Register* its withdrawal of a direct final rule amending the standards and practices for All Appropriate Inquiries (“AAI”) under the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), due to adverse comments it received on the rule. The withdrawn rule would have amended the AAI rule to allow the use of the revised ASTM E1527-13 “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process,” but would have allowed parties to continue using the previous ASTM E1527-05 Standard to satisfy the requirements for conducting AAI.

The revised standard, which has not yet been formally published by ASTM, is more stringent than the 2005 standard. Among other aspects, it requires environmental professionals to review and validate the information found on agency databases, requires contaminants released via vapor intrusion to be identified as RECs, and limits historic recognized environmental conditions to releases that were remediated to allow unrestricted residential use.

EPA received several comments criticizing the revised standard and EPA’s approach of allowing continued use of the less stringent 2005 standard. As a result of EPA’s withdrawal of the direct final rule, parties can therefore continue to use the 2005 standard to satisfy AAI requirements until such time as it is definitively replaced by EPA with the revised standard. EPA has not indicated when it will re-issue the rule, stating only that it “will address the comments received in any subsequent final action.”

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