

# ASTM E1527-21/All Appropriate Inquiries: U.S. Environmental Protection Agency Withdraws Direct Final Rule



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The United States Environmental Protection Agency (“EPA”) has withdrawn a direct final rule amending 40 CFR Section 312.1 which would revise the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) All Appropriate Inquiries (“AAI”) rule.

The proposed and direct final rule had been promulgated on March 14, 2022. See 87 Fed. Reg. 14224, and 87 Fed. Reg. 14174-14177, respectively.

The purpose of both the proposed and direct final rule was to amend the AAI referenced ASTM E1527-21 which is titled:

*Standard Practice for Environmental Site Assessments: Phase 1 Environmental Site Assessment Process (“E1527-21)*

The importance of these rules was the confirmation that ASTM 1527-21 could be used to satisfy the requirements of AAI.

As noted in a previous [blog post](#) EPA received a number of comments on the proposed and direct final rule. The comments submitted had been generally supportive of EPA’s adoption of ASTM E1527-21. However, a number of comments criticized the retention of ASTM E1527-13 (i.e., E1527-13 could continue to be used).

An example is the United States Chamber of Commerce’s April 13th comments which state:

Continued use of 2013 standard. Our members urge EPA to make the transition to the new 2021 standard and eliminate the flexibility to apply either 2013, 2021, or other standards. The new ASTM standard requires agreed on methods and records to justify the property determination.

Concern was also expressed that the retention would result in confusion.

EPA will now address the submitted comments. EPA states that it will:

. . . address these comments in a subsequent final action, which will be based on the parallel proposed rule also published on March 14, 2022. As stated in the direct final rule and the parallel proposed rule, we will not institute a second comment period on this action.

A copy of the EPA withdrawal notice can be downloaded [here](#).

