

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



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The United States Environmental Protection Agency (“EPA”) published a final rule in the December 15th Federal Register amending the Standards and Practices for All Appropriate Inquiries (“AAI”) pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA or Superfund”). See 87 Fed. Reg. 76578.

AAI is generally described as the process of evaluating a property’s environmental conditions and assessing potential liability for contamination.

EPA had originally promulgated a direct final rule on March 14, 2022. See 87 Fed. Reg. 14174-14177. However, the direct final rule was withdrawn because of a number of comments which, while generally supportive of EPA’s adoption of ASTM E1527-21, were critical of the retention of ASTM E1527-13.

The final rule promulgated on December 15th clarifies that ASTM E1527-13 as an option for performing AAI is eliminated. However, it allows a one-year grace period to continue to use this 2013 standard.

The importance of AAI is that the standard must be met in circumstances such as:

- Threshold criteria for brownfield grant applicants
- Recipients of brownfield assessment grants
- CERCLA liability determinations (i.e., parties seeking protection from CERCLA liability as bona fide prospective purchasers, contiguous property owners, or innocent landowners who must conduct AAI prior to purchasing property)
- Target brownfield assessments

The objective of AAI is to conduct inquiries into past uses and ownership of a property. This includes visually inspecting it to identify conditions indicative of releases and threatened releases of hazardous substances on, at, in, or to the subject property.

A copy of the Federal Register Notice can be downloaded [here](#).