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06.18.2014 [2005 Phase I ESA Will No Longer Satisfy All Appropriate Inquiries Under EPA Proposed Rule](#)

By Andrew C. Brought, Kathleen M. Whitby

On June 17, 2014, EPA issued a proposed rule in the Federal Register, 79 Fed. Reg. 34480, proposing to amend the standards and practices for satisfying All Appropriate Inquiries (AAI) under CERCLA. In particular, EPA is proposing to remove references to the 2005 Phase I ESA Standard ASTM E1527-05 as satisfying AAI.

06.10.2014 **CERCLA Will Not Save a Toxic Tort Claim which is Barred by a State Statute of Repose**

By Kathleen M. Whitby

Earlier today, June 9, 2014, the United States Supreme Court handed down its decision in *CTS Corp. v. Waldburger*, et al., slip op. No. 13–339 (U.S., 6-9-2014). Reversing the Fourth Circuit, the Supreme Court held that the Superfund law's preemption of state statutes of limitation for personal injury or property damage claims does not apply to state statutes of repose. Not every state has such a statute on the books, but for those that do, this may provide an additional shield for defendants, and an additional hurdle for plaintiffs.

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