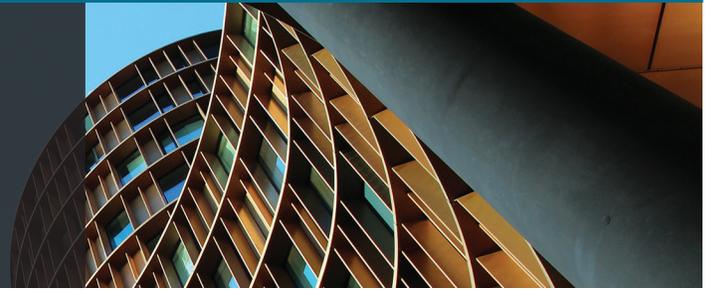


## The New ASTM E1527-21 Standard Practice for Phase I Environmental Site Assessments (ESA)



### The BBG Environmental Assessment Team Highlights Key Changes

The American Society for Testing and Materials (ASTM) Committee on Environmental Assessment, Risk Management and Corrective Action (ASTM Committee E-50) approved a new standard for conducting Phase I Environmental Site Assessments (ESAs). The new standard (E1527-21) was published in November 2021 and makes significant modifications to the previous ASTM Phase I Standard Practice (E1527-13). The most significant modifications include:

**New Definition of “Recognized Environmental Condition” (REC):** Presence or **“likely”** presence of Hazardous Substances or Petroleum Products in, on, or at the property:

- + Due to a release to the environment
- + Under conditions indicative of a release
- + A material threat of future release

**Definition of the Term Likely:** “Likely is that which is neither certain nor proved, but can be expected or believed based on the logic and experience of the environmental professional, available evidence, or both, as stated in the report to support the opinion given therein.”

**Consistent Use of the Term “Subject Property”:** Rather than using a variety of terms to reference a property that is the subject of a Phase I ESA, the new E1527-21 Standard encourages use of the term “subject property” throughout the Phase I Report.

**Shelf Life of an E1527-21 Phase I Report:** The new E1527-21 Standard establishes that the Phase I Report must be completed no more than 180 days prior to the date of acquisition for the report to remain viable or up to one year, if five specific components of the Report have been updated (the five components include: interviews, searches for recorded environmental cleanup liens, review of government records, site reconnaissance of the subject property and the Environmental Professional [EP] Declaration). In addition, the new E1527-21 Standard requires that the dates in which each of the components were completed be identified in the Phase I Report, and that the 180-day or 1-year time period begins with the date upon which the first of these components was completed.

**Requirement to Use Standard Historical Sources:** The new E1527-21 Standard prescribes that, at a minimum, the following four sources (aerials, fire insurance maps, city directories and topographic maps) shall be reviewed in association with the subject property and adjoining properties as part of the Phase I ESA process. Adjoining properties include properties with abutting property boundaries and properties that are across a street or alley from the subject property.

If one or more of the four sources cannot be reviewed, the report should include a statement to explain why the source could not be reviewed. Additional Standard Historical Sources should also be reviewed as needed to complete the objective of identifying RECs.

**Use of Additional Standard Historical Sources:** The new ASTM E1527-21 Standard emphasizes the need to provide detailed information about historical use, even if the general use of the subject property is classified as a property type not considered to be a source of contamination. Therefore, even if the general use of the subject property is classified as retail, the new E1527-21 Standard requires that additional sources be reviewed if they are likely to identify a more specific use and are reasonably ascertainable.

**Definition of Historical RECs (HREC):** Subject properties with a previous release of hazardous substances or petroleum products that has been addressed to meet the unrestricted use criteria established by the applicable regulatory authority or authorities. The new E1527-21 Standard requires that the EP evaluate the past closure of a contaminated site and the environmental assessment data associated with the closure to confirm that the assessment meets current standards for unrestricted use.

**A New Type of REC:** A new, third type of REC, known as a “Controlled Recognized Environmental Condition” (CREC) can also be identified in association with a subject property. A CREC is defined in the new E1527-21 Standard as “a recognized environmental condition affecting the subject property that has been addressed to the satisfaction of the applicable regulatory authority or authorities with hazardous substances or petroleum products allowed to remain in place subject to implementation of controls (for example, activity and use limitations or other property use limitations).”

**Guidance Regarding REC vs HREC vs CREC:** Because the ASTM Committee recognized that there have often been major differences of opinion between consultants whether a property condition constitutes a REC, a HREC and/or a CREC, the new ASTM E1527-21 Standard includes an Appendix that contains a flow chart (Appendix X 4) for making determinations whether a subject property condition constitutes a REC, HREC or a CREC. The chart is designed to create more consistency among consultants in making such determinations.

**Interviews:** The new ASTM E1527-21 Standard classifies and groups interviews into one of the ASTM Standard Historical Sources of information.

**Emerging Contaminants:** The new E1527-21 Standard provides guidance that environmental consultants are not required to include emerging contaminants, such as per- and polyfluoroalkyl substances (PFAS), in their scope of work when conducting Phase I ESAs until substances are required to be included in the scope of an ASTM E1527-21 Phase I ESA. However, the new E1527-21 Standard also indicates that inclusion of such substances may be added to the Phase I ESA as a “Non-Scope Consideration” in the Phase I if requested. This can be particularly important for those Phase I ESAs that are conducted in states that already have adopted regulatory standards for such substances, or the adoption of regulatory standards are anticipated in the near future.

**Significant Data Gap:** The new E1527-21 Standard now includes a definition of what constitutes a, “significant data gap,” defining it as, “a data gap that affects the ability of the environmental professional to identify a recognized environmental condition.” An example of a significant data gap could include an inaccessible building located on a subject property that houses activities that can lead to RECs. In addition, the new E1527-21 Standard requires a discussion of how significant data gaps affected the EP’s ability to make conclusions regarding RECs.

**Inclusion of Maps/Photographs:** The new E1527-21 Standard makes it clear that photographs and a subject property map illustrating the boundaries of the subject property must be included in all Phase I ESA Reports. Major site features and locations on the subject property that are considered RECs, and also de minimis conditions should be

## Next Steps

ASTM has submitted the new E1527-21 Standard to the EPA for review of compliance with the federal AAI regulations. EPA approval may take up to one year. In the meantime, environmental consultants have several options for implementing the new E1527-21 Standard. They include:

- + Continue using and citing the ASTM E1527-13 Standard until the EPA approves the new ASTM E1527-21 Standard for compliance with the AAI regulations;
- + Use and cite the new ASTM E1527-21 Standard now; or
- + Cite the ASTM E1527-13 Standard, and indicate that the Phase I ESA also incorporates procedures as prescribed in the new ASTM E1527-21 Standard.

Beginning with new ESAs booked January 1st 2022 and after, BBG intends to utilize the hybrid style report outlined in item 3 above. New reports will cite the ASTM E1527-13 Standard, and indicate that the Phase I ESA also incorporates procedures as prescribed in the new ASTM E1527-21 Standard. Once the EPA approves the new standard (later in 2022) the full ASTM E1527-21 will be incorporated and the reference to ASTM E1527-13 will be removed.

## Learn More

If you have questions about the new ASTM E1527-21 Standard or any other questions about Phase I Environmental Site Assessments, please contact:



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