

## Out with the old in with the new environmental standard ASTME E1527-21 officially sunsets E1527-13 - by Chuck Merritt



**Chuck Merritt**

The ASTM E1527-21 Standard went into effect February 13, 2023. Most consultants have spent the last year adjusting to this new standard, spending many hours attending webinars, reading articles, educating themselves, their staff and clients on the nuances of this new standard. Not to mention the time spent upgrading report methodology, technology, templates, and language. The “trial period” has come to an end as the E1527-13 Standard officially “sunset” on February 13, 2024 and the Federal Environmental Protection Agency (EPA) will no longer recognize the previous standard as meeting All Appropriate Inquiry (AAI).

Through the efforts of the ASTM Task Group, the E1527-21 Standard sought to streamline the Phase I process and create a more consistent and improved product. Most changes /clarifications in the E1527-21 standard came about as user groups and stakeholders were looking to have more con-

sistency and better quality in the Phase I reports received. This was implemented via revised definitions, clarifications regarding historical sources, and changes to the viability period of all sources reviewed.

One of the most notable changes of the E1527-21 included a clarification that the adjacent/ adjoining properties needed to be evaluated in addition to the subject property parcel. The Standard mandates that the consultant review data on adjoining properties with as much scrutiny as they would the subject property. Since there is a potential that these properties may have caused an impact to the soil/groundwater or air quality (based on current or historical usage), consultants are required to properly vet these sites and determine if they pose a potential environmental risk to the subject property.

In ASTM 1527-21, the definition of a Recognized Environmental Condition (REC) was revised to include the verbiage, “likely presence of a hazardous substance due to a “likely release.” The word “likely” ensured that professionals spent the time reviewing all sources before forming a conclusion. This change will result in more RECs identified in the E1527-21 Reports. RECs tend to lead to further investigation or a “phase two”.

E1527-21 standard also clarifies that environmental consultants are not “currently” required to include emerging contaminants, such as per- and polyfluoroalkyl substances (PFAS), in their scope of work until emerging contaminants are regulated as a federal CERCLA hazardous substance. However, the CERCLA Final rule is due out in March of 2024 and expected to add these compounds. EPA is also proposing to amend its RCRA regulations to add multiple PFAS compounds as hazardous constituents to the list of substances identified for consideration in facility assessments and, where necessary, further investigate and cleanup through the corrective action process at hazardous waste treatment, storage and disposal facilities.

Although not required now, many consultants have adopted the practice of including PFAS in some capacity when the subject property was a potential source of PFAS /PFOS or near a source (i.e. airports, landfills or manufacturing sites that may have used these chemicals). When a buyer is the client and utilizes a phase one report for conducting their due diligence, they need to understand the ramifications of purchasing a site that may have PFAS/PFOS chemicals in the groundwater as it may impact the value of the property if there is a real or perceived

stigma to the property. Obtaining financing may prove more challenging as well.

With every set of revisions that accompany the new standard, the hope is that the quality of reports will improve resulting in optimum protection for the user. Furthermore, consultants that prepare phase one ESA’s should compete on a level playing field when everyone uses the same standard / methodology.

Several sections of the new standard were overhauled to provide better information within the ESA work product. It is important to remember that it is the purchaser of the property who has the most to gain (or lose) by having the correct report to protect their interest and achieve certain legal protections as part of the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA).

The E1527-21 Standard set out to enhance and strengthen the final report. Although the onus still is on the consultant to interpret the data to the best of their ability and provide a detailed report outlining these potential concerns, the revised standard is designed to give the user the most comprehensive report possible.

**Chuck Merritt, LEED AP, is the president of Merritt Environmental Consulting Corp., Hauppauge, N.Y.**