



ASTM releases the 1527-13 Phase One Environmental Standard - Federal EPA to follow soon

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On November 6th, the American Society of Testing Materials (ASTM) released the much anticipated 1527-13 Phase One Environmental Site Assessment (ESA) standard. Effective as of the release date, the standard contains a few new provisions to be included. The next step is for the Federal Environmental Protection Agency (EPA) to determine that the standard meets the definition of the All Appropriate Inquiry (AAI) rule. The EPA decision is expected to be issued by the end of this year or beginning of 2014.

For many years, there has been different interpretation to the ASTM 1527 standard and what should be included. Many times this has led to confusion by the end users. Especially when requesting bids and finding large price fluctuations for what is perceived as an "apples to apples" report. The standard is being viewed by many as a clarification to some sections of the existing 1527-05 standard which was released in 2006.

The 1527-13 standard has worked its way through the ASTM committee and comment period for more than two years. Many consultants have been following the revisions and even begun incorporating them into their reports. There are many forums in which one can find out more information about the changes. One only needs to type in the numbers of the standard to a web based search engine, so I will not spend too much time in this article elaborating on the changes.

A recent environmental seminar on Long Island brought many of the areas consultants together to discuss the new standard. As part of that presentation, a regional lender was present to answer questions on how their bank is implementing the new changes. Many other lending institutions are taking this opportunity to review their environmental risk policies. Depending on the size of the loan or the asset class, lenders may use a variety of tools including database reports and transaction screen assessments (TSA's) to help manage environmental risk. The new standard only impacts phase one ESA reports as the other products do not meet the definition of the AAI Rule so there are no changes to how these products are utilized. If the bank policy requires an ASTM 1527 report, then all in the process of completing the loan should understand the new components as it may affect real estate values if discovered during a later date. This typically occurs at a later date such as a future sale in which the buyer engages in a more comprehensive investigation or when the lender begins the foreclosure process.

Purchasers of real estate as well as lenders that rely on the ASTM1527 standard should be versed in the new standard. The standard does offer some liability protections to a buyer if conducted properly. In the last several years the concept of vapor encroachment or vapor intrusion has taken center stage and is the most important part of the new standard. Vapor is the process where contaminants in the soil and groundwater breakdown into a gaseous state. When that occurs, vapors can migrate through these sub-surface medias and accumulate in building structures. Most

of the vapor scenarios stem from present and former gasoline stations and dry-cleaners. The need to understand the potential impact at the subject site or adjacent properties has become even more important under the new standard.

The environmental industry has been trying to predict how pricing will be impacted based on the new standard. While new technologies and competition have helped drive pricing down over the past several years, some of the new changes may reflect in cost increases. Firms that have already been implementing the changes will be best suited to offer competitive pricing while other firms may need to charge additional fees to their clients to ensure the report meets the 1527-13 standard and therefore compliant with the EPA AAI rule.

There is nothing wrong with conducting a little due diligence on your due diligence firm. Questions like how long have you been in business, how many projects have you done in this area, what kind of insurance do you carry, will you certify the report to my lender are all fair. There will always be a temptation of going with the lowest price, but when you consider the cost of commercial real estate you should choose who you think brings the most value to your team.

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