

Understanding the New ASTM 1527 21 Standard for Phase I Environmental Site Assessment

Introduction

On March 14, 2022, the Environmental Protection Agency took “direct final action” to amend the All Appropriate Inquiries (AAI) Rule to reference ASTM International’s E1527-21 “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process” that will satisfy the requirements for conducting AAI under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). ASTM had amended the 1527 standard late last year and was waiting for the EPA to act to amend the AAI Rule.

The new Rule is effective on May 13, 2022 barring any major negative public input. However, the EPA will recognize both versions of the standard for a period of time they have yet to define.

Background

In 1997 the American Society of Testing and Materials (ASTM) collaborated with industry professionals to create the ASTM E1527-97 Standard Practice for Environmental Site Assessments: Phase 1 Environmental Site Assessments. This standardized practice was created to provide industry professionals guidance to ensure that their investigations met the criteria for All Appropriate Inquiry (AAI).

AAI was established under Federal Code 40 CFR, Part 312 as a means to demonstrate that a purchaser of real estate property qualified for the Innocent Landowner Defense under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

The ASTM E1527 standard has become an integral part of the real estate transaction process and is updated approximately every eight years. There have been four updates since its introduction including: E1527-00, E1527-05, E1527-13, and most recently, E1527-21. Each iteration of the standard has improved the quality of guidance provided to Environmental Professionals.

The Change Process

The most recent standard (E1527-21) revisions began over three years ago and included an advisory committee of over 150 industry professionals. The goals of the revisions were to ensure the standard keeps abreast of current environmental and regulatory trends, improve clarity, provide consistency, and maintain usability. The most recent standard was approved and finalized by the ASTM committee on November 1, 2021; and was recently adopted by the US EPA on March 14 2022. However, the EPA has said it will recognize both the E1527-13 & 21 standards for a period of time.

The New Standard

Many of the components of the new standard are already a part of CREtelligent’s rigorous approach to AAI environmental due diligence practice for commercial real estate. Notable changes to the standard include:

- Standardized definition and application of RECs, CRECs, HRECs, and DeMinimis Conditions. A flowchart of the risk determination process is shown on the back side.
- Standardized use of term “subject property”.
- Identification of whether land title records were received from the user and whether the user identified AULs or environmental liens.
- Inclusion of map showing property boundaries and photographs from the reconnaissance.
- Required historical research of adjoining properties.
- Definition of what constitutes a “significant data gap” and required discussion of how significant data gaps affected the EP’s ability to make conclusions regarding RECs.
- Amendments to the report shelf life of no more than 180 days prior to the date of acquisition or up to a year if the five components below were updated. The start date is clearly defined as the date that the first of any of the following components were completed: Interviews, searches for recorded environmental cleanup liens, review of government records, site reconnaissance of the subject property, Environmental Professional [EP] Declaration.

Summary

Many of the changes in the new standard are already incorporated within CREtelligent’s reporting process and are not expected to have a significant impact on our Phase I services. CREtelligent will continue to cite E1527-13 to ensure AAI protections of our clients. Once the new standard has been approved by the EPA, we will be ready to issue our reports in the updated format. Once we implement the new ASTM 1527-21, our clients should expect the following:

- Request for land title record information along with our request for completed environmental questionnaire as part of project kick-off.
- Definition changes/clarifications of RECs, CREC, HRECs, and DeMinimis conditions.
- Citation of new ASTM standard number (E1527-21) throughout Phase I ESA reports.
- Summation and discussion of significant data gap impacts and outcomes to our risk assessment.

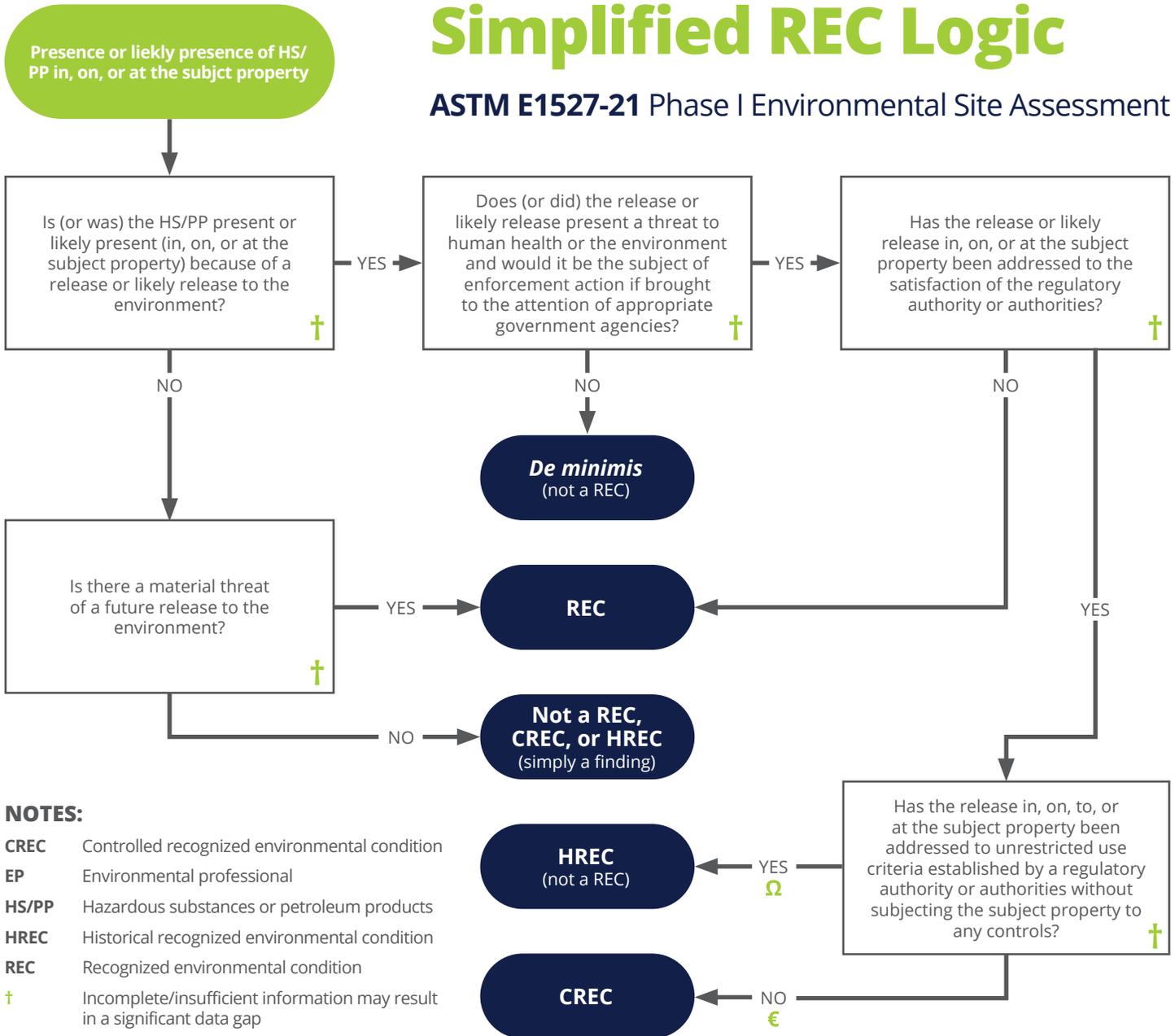
Have more question on the new standard or any due diligence service? Contact your CREtelligent representative.





Simplified REC Logic

ASTM E1527-21 Phase I Environmental Site Assessment



NOTES:

- CREC** Controlled recognized environmental condition
- EP** Environmental professional
- HS/PP** Hazardous substances or petroleum products
- HREC** Historical recognized environmental condition
- REC** Recognized environmental condition
- † Incomplete/insufficient information may result in a significant data gap
- Ω Before calling the past release a HREC, the environmental professional should review the discussion of the HREC process in 3.2.39.1
- € Before calling the past release a CREC, the environmental professional should review the discussion of the CREC, process in 3.2.17.1

