



ENVIRONMENTAL UPDATE FOR MUNICIPALITIES

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Wetland Mitigation and Banking

Whether you are planning to sell or purchase property, manage storm water or permit a wetland, environmental issues subject to local, state and federal environmental law may need to be managed. For municipalities, environmental issues may arise infrequently, but when they do it can become a major distraction.

The following is a review of a few of the most important issues that your community might face:

• Storm Water:

The National Pollutant Discharge Elimination System (NPDES) permit program regulates the discharge of pollutants from point sources to waters of the United States. Storm water from your DPW yard, Facilities & Maintenance buildings or Parks & Recreation facilities could be regulated by the NPDES permit program. If your site discharges storm water to a municipal storm water system or open channel, your site may require an NPDES permit. ASTI Environmental can schedule a site visit to determine if your facility requires an NPDES permit, a Spill Prevention, Control & Countermeasure Plan (SPCC), a Pollution Incident Prevention Plan (PIPP) or a Storm Water Pollution Prevention Plans (SWPPPs). For more information please contact Bruce Bawkon at

bbawkon@asti-env.com or
810/225-2800 ext. 234.

• Michigan Wetland Program Update:

On July 2, 2013, the Governor signed Public Act 98 of 2013, which modified Michigan's Wetland Protection program (Part 303), as well as the Inland Lakes and Streams program (Part 301). Many of the changes were in response to the EPA's oversight of Michigan's Section 404 authority, with the purpose of trying to bring Michigan's wetland program more in line with the federal wetland program, as required. However, some of the new changes will result in less wetland and stream protection. The EPA is currently reviewing these changes for conformance with the federal Clean Water Act. If the EPA finds that Michigan's program is out of compliance, the state wetland program maybe is in jeopardy. Fortunately, Dan Wyant, Director of the Michigan Department of Environmental Quality, had made it one of his top priorities to work with the EPA to keep Michigan's authority to administer the Section 404 program. Most wetland professionals and stakeholders believe that if Michigan were to lose the wetland program, wetland permitting in Michigan would become a significantly more lengthy and cumbersome process. A loss of Section 404 authority would

also have implications for those municipalities with local wetland ordinances. For information on the status of the EPA review, contact Dianne Martin at 810.225.2800 ext. 208 or dmartin@asti-env.com.

Loans Available for Municipalities Interested in Wetland Mitigation Banking:

A wetland mitigation bank is a site where wetlands are restored, created, or preserved for the purpose of providing compensatory mitigation in advance of authorized impacts to regulated wetlands. Public Act 511 of 2012 provides a means by which the State of Michigan will offer loans and possibly grants to municipalities interested in establishing a wetland mitigation bank. According to the Michigan DEQ, they are currently in the process of setting up the program specifics and will be ready to accept applications for the program in January of 2014. For details covering wetland mitigation banking, please contact Dianne Martin at 810.225.2800 ext. 208 or dmartin@asti-env.com.

• Changes to Environmental Due Diligence:

With recent changes in legislation, both the environmental assessment and brownfield incentives programs in Michigan have new options and requirements. Assessments are more focused on soil gas and vapor intrusion from historic impacts, and although the Baseline Environmental Assessment is still the key document for state liability protection, there is more emphasis on documentation of Due Care Compliance and No Further Action (NFA), and on the associated maintenance and control requirements.

The due care exemption for public use property has been eliminated, resulting in the need for Due Care Plans and operation and maintenance of due care controls. For more information contact George Kandler at 810.225.2800 ext. 204 or gkandler@asti-env.com.

New Standard for Phase I Environmental Site Assessments

ASTM E1527-13 was approved on November 1, 2013 and published November 6, 2013, and is the new standard for Phase I Environmental Site

Assessments. Please be aware that one of the major clarifications in the new standard is that vapor migration (encroachment), which differs from intrusion, may lead to a vapor intrusion assessment in accordance with ASTM E2600-10. Your resource for implementation of the new Phase I ESAs is Carey Kratz at 810.225.2800 ext. 222 or ckratz@asti-env.com.

• Brownfield Restoration

A combination of appropriate assessment, control, and site design can help make an urban or brownfield project a success, but incentives, are typically required. Incentives are still available, but are now focusing on traditional downtowns and commercial corridors and on projects that have clear financing gaps. Not all projects will qualify and, depending on your community, the definition of eligible costs may vary.

The recommended approach is to determine eligibility for the project. Only after you have a sense of your community and state support for the project, and the level of eligible costs relative to any funding gap, should you start the review and approval process. ASTI can provide your community a free review for any project in Michigan. Also, municipalities no longer have to pledge their full faith and credit for brownfield loans. For details on Brownfield Restoration, please contact Tom Wackerman at 810.225.2800 ext. 203 or twacker@asti-env.com.

Summary:

Communities rely on Environmental Consultants for their technical expertise, understanding of current requirements and experience to navigate the maze of local, state and federal regulations in order to provide cost-effective solutions for your community. ASTI staff are available to answer questions and provide project specific solutions.



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