

SPOTLIGHT ON ASTM'S COMMITTEE E50

A Conversation with Tim Haley

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Mary Ann Grena Manley
Founder & President,
15E Communications LLC
magmanley@15ecomms.com
Twitter: [@magmanley](https://twitter.com/magmanley)



*ASTM's [Committee E50 on Environmental Assessment, Risk Management, and Corrective Action](#) develops important voluntary industry standards and best practices that play a critical role in commercial real estate transactions and pollution prevention. We sat down with **Committee E50 Chair Tim Haley** to talk about some of the most challenging environmental issues today, the voluntary standards process, expanding the use of standards in the marketplace, and how E50 is addressing evolving issues related to environmental risk management, PFAS, and ESG.*

Q: Tell us what ASTM does and how you got involved.


A: I got involved with ASTM in about 2007. At the time, I was an attorney at Barnes & Thornburg in the environmental group, and I had a client who was getting into brownfields redevelopment. I read an article in a trade paper about a work group on identifying and complying with continuing obligations (what later became [E2790](#)), which Bob Wenzlau of Terradex headed up. I reached out to Bob, and he invited me to join the next meeting to see if I wanted to participate. So, I went, and I started getting involved in that standard, which is related to the [E1527](#) standard (Phase I Environmental Site Assessment Process) and [E2247](#) (Phase I Environmental Site Assessment Process for Forestland or Rural Property). All the real estate due diligence standards coincided with my practice area, so I got involved, stayed involved, and deepened my involvement over time. Fifteen years later, I'm the chair of ASTM's Committee [E50](#) on Environmental Assessment, Risk Management, and Corrective Action and the chair of subcommittee E50-91, our education and outreach committee charged with getting the standards out into the world.

As the chair of E50, I'm in charge of administering the [seven subcommittees](#) to ensure they have what they need to get their standards done. There are subcommittees related to underground storage tanks, real estate, beneficial use, corrective action, risk management, climate, and biological effects and fate transport.

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Q: Who are the members of Committee E50? What areas of expertise are represented in the group?

A: Part of the benefit of ASTM, as a consensus-based organization, is having as many interests involved as possible, ranging from environmental and real estate professionals to lawyers and Fortune 500 companies.



We need people who are using the standard. We need people who are producing the thing in the standard. We need people who are regulating. We need everybody at the table to have a viable standard. Of course, some task groups draw more interest than others. For example, [E50.07 on Climate and Community](#) and ESG currently draw a big crowd!

Q: What are some of the key issues you're working on today? What is in progress, and what new standards are underway?

A: ESG is really hot right now. I have seen in the marketplace that typically, environmental issues end up in a corporation's EHS department, accounting issues end up in its accounting department, ESG lands in the general counsel's office, and sustainability issues are addressed in corporate policy groups. These corporate divisions don't naturally talk to each other on a day-to-day basis, and there is no natural bridge between EHS and the other operating divisions. So, everyone is looking at what they think is a blank page, even though elsewhere in their company, they've got many of the blanks already filled in. That is the operational pain point that companies need to solve. Our standards get into the weeds on these issues and hopefully will bring these silos together.

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Another set of standards that are hot are accounting standards ([E2137](#) and [E3123](#)) that live in E50.05 on Environmental Risk Management. These standards focus on identifying and estimating environmental liabilities and then on how to communicate what the environmental liabilities are for accounting disclosure rules. These are issues that any public company that has to file a 10-K or 10-Q must grapple with, and these

standards guide how to do it in the environmental context. Any government entity that issues bonds must also address these issues and similarly benefit from the standards.


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Q: Is there anything specific ASTM is working on concerning PFAS?

A: PFAS concerns are paramount throughout ASTM and span all the E50 subcommittees. We have developed test methods for PFAS and are working on standards addressing the fate and transport, and risk assessment of PFAS.

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We also got a lot of attention on the revisions to the Phase I environmental site assessment standard, E1527-21. This standard is used on most commercial real estate transactions in the U.S. The existing E1527 doesn't directly discuss any specific constituent. Instead, it focuses on conducting a site visit and other steps in the environmental site assessment process primarily to identify CERCLA risks. In the revised standard, we made it clear that even though the whole suite of PFAS (covered under the broader category of emerging contaminants) are not yet classified as CERCLA hazardous substances, at least some of those constituents appear likely to become regulated under CERCLA, and they all have the potential to be. Therefore, a user can look at them under the Phase I standard. Because E1527 is often used to satisfy state obligations, and some states have already categorized PFAS as hazardous substances, the standard now includes a footnote that indicates it can be used to



satisfy state equivalent CERCLA standards. Addressing PFAS and related risks requires a real-world approach, which is required in some places. Therefore, the 1527-21 standard does not prohibit such review.

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Q: What were the main focus areas and key takeaways from E50's Fall 2022 meeting? What topics are getting the most attention looking ahead to 2023?

A: During the last two to three years, there's been a great deal of emphasis on getting the committee's standards out to the public. To that end, we are developing new online training courses and workshops — trying to up the game for all of our standards to make their use in the marketplace more robust — and we're experimenting with social media and different marketing approaches. For example, ASTM has helped us produce 2-minute videos on various standards as part of an increased marketing effort.

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We are also developing new training courses, including a Phase I (environmental due diligence standard) course for users. Right now, the existing training for Phase I is for environmental professionals. But we need a standard that doesn't require you to get into the weeds of, for example, how to do the file review. We want to educate more on, you've got this Phase I report; what does it mean? The audience is banks, land developers, lawyers, regulators, and anyone who reviews Phase Is and needs to interpret what it all means. We hope to roll out this course in the fall of 2023.

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Q: What substantive areas under E50 have been the most challenging to tackle?

A: PFAS was a challenging substantive area, but we had an army of people with expertise and perspectives, so we were able to address the issues rather quickly, in my opinion.

Often, the more challenging areas are interdisciplinary. For example, developing ESG standards like our [WK77095: New Guide for Environmental, Social, and Governance \(ESG\) Disclosure Related to Climate and Community](#) and figuring out how best to get them into the world is challenging because of the existing corporate and regulatory structure. Getting consensus in a group of interdisciplinary professionals — where sometimes the exact words have different meanings — can be very difficult. Once consensus is achieved, the next challenge will be getting it into the hands of the groups of people who need it, which isn't always obvious or straightforward.

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Q: What are some of the general benefits and challenges of the voluntary standards process?

A: Because ASTM is a consensus organization, the committee needs to balance interests and revise proposed standards until everyone agrees or at least doesn't disagree. Sometimes that creates tension. Naturally, concessions are made during that process, but the process always improves the final product.

Another challenge is that we're all volunteers. We have full-time jobs and families, and adding expertise and perspectives to the ASTM process is not always the highest priority. Sometimes standards move slower than we'd like. That said, on the plus side, the group's makeup allows multiple perspectives on an issue. That can make some meetings tedious but also improve the standards.

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For the standard to be robust, you need people with different viewpoints in the room. And that's it, that's the magic. You've got everybody talking about what's possible and all moving together to expand possibilities.

If anyone is interested in joining, they can [sign up on ASTM's website](#) and come to Committee Week. The next one begins on April 17 in Denver. We work hard, but it's also fun. Membership is inexpensive, only \$70 a year. We are always looking for new members. 📄



Tim is the President of [Latitude](#) Indiana. A native Hoosier, he joined Latitude after working as a partner at AmLaw 100 firm Barnes & Thornburg LLP in Indianapolis. Tim represented Fortune 500 companies, not-for-profits, and privately held businesses ranging from multinationals to family-owned enterprises. During his 14 years of private practice, Tim advised and represented clients on complex environmental litigation, transactions, and compliance matters. His roles included serving as lead counsel in a successful appeal before the Indiana Supreme Court, serving on the victorious defense trial team in a high-profile federal criminal case, and advising on numerous noteworthy corporate transactions. Tim also regularly advised general counsel on sophisticated environmental compliance matters and handled administrative appeals. Tim is also the chair of ASTM's Committee E50 on Environmental Assessment, Risk Management, and Corrective Action.

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