



Phase I Environmental Site Assessment (ESA)

Phase I ESA's are typically performed to:

1. Identify the presence or likely presence of Recognized Environmental Conditions, and
2. To become eligible for Superfund Liability Protections under CERCLA of 1983.

ASTM Standard E1527-13 defines a “recognized environmental condition” (REC) as:

The presence or likely presence of any hazardous substances or petroleum products in, on, or at a property...

| # | Definition (cont'd) | Risk translation for the buyer/my client* |
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| 1.) | “...due to any release to the environment,” | Actual release (spill or leak) with residual contaminant concentrations > applicable regulatory limits. |
| 2.) | “...under conditions indicative of a release to the environment, or” | Potential historical release with residual contaminant concentrations > applicable regulatory limits. |
| 3.) | “...under conditions that pose a material threat of a future release to the environment.” | Potential future release with residual contaminant concentrations > reg limits that could migrate onto the subject property, or from poor on-site management or inappropriate use of controls. |

**Client risk tolerance for inheriting environmental liability is proportional to scope/cost of Phase II ESA.*

An environmental professional (licensed geologist/engineer) must complete the Phase I ESA, and it must include summaries of the following:

1.) Performance of an on-site visit to identify chemical leaks/spills, stained pavement, stressed vegetation, etc.) or evidence of existing or historical usage of hazardous substances/ petroleum products (above ground/underground storage tanks, chemical storage areas, etc.);
2.) Evaluation of risks from neighboring properties to the subject property;
3.) Review of Federal, State, Local and Tribal Records for sites ranging up to 1 mile away;
4.) Interview of persons knowledgeable about the property history (owners, occupants, neighbors);
5.) Examination of municipal or county planning files to check prior land usage and permits;
6.) Conduct file searches with public agencies (environmental regulatory agencies, fire department, city directories, etc.) with oversight of site use and water quality/soil contamination issues;
7.) Examination of historic aerial photography to identify historical site use at/near the property;
8.) Examination of current USGS topographic maps to identify surface and groundwater flow direction and relative proximity to sensitive receptors; and
9.) Examination of chain-of-title for Environmental Liens and/or deed restrictions as provided.

Common RECs at or adjoining (risk if hydraulically up-gradient) the property:

- 1.) Leaking above or underground storage tanks, drums, electrical transformers, or supply lines;
- 2.) Unaddressed or inappropriately managed chemical spills;
- 3.) Unlawful dumping of hazardous materials;
- 4.) Soil contamination from grading activities using soil/fill derived from previously unregulated sources.

To clarify risk, Potential RECs may be further classified as the following conditions:

- 1.) De minimis- no real risk to health/environment, and it wouldn't be subject to enforcement action.
- 2.) Historical REC- past release, but no further concern of risk or enforcement action.
- 3.) Controlled REC- past release that may still pose risk if controls are not maintained.