



Phase I Environmental Site Assessment

It takes information to identify if a property is a Brownfields or not. Common sense tells us every property with commercial history does not require environmental cleanup. To determine which ones may have environmental issues, it is impractical to go to every potential Brownfields and collect samples for laboratory chemical testing. Even if money were no object, you can never test for everything, everywhere on any property. Where do you begin?

Brownfields Application

The Phase I Environmental Site Assessment (ESA) is a preliminary look at a possible Brownfields property. It is limited in nature and primarily involves records research and on-site visual observations. Phase I ESAs do not require sampling or testing. Phase I ESAs identify recognized environmental conditions in which a past, current, or *potential* release of hazardous materials may have occurred. Identification of a recognized environmental condition does not indicate the release has occurred or, if it has, that it requires cleanup. The report does not require regulatory or other action except in special circumstances of imminent threat to public health. Conducting ESAs for the Assessment Project provides essential information to:

- Provide liability protection to owners
- Help decide where actual testing should occur when necessary

Brownfields Liability

The Comprehensive Environmental Response, Compensation, and Liability Act and amendments (CERCLA/ Superfund) provide that the responsibility of correcting past environmental problems can fall to a current owner or new buyer. However, EPA recognized undiscovered conditions could remain hidden until after purchase.

The 2002 Small Business Liability Relief and Brownfields Revitalization Act provides for liability protection. It requires the innocent landowner to have had no “reason to know” of environmental problems. The Act establishes standards and practices to conduct “all appropriate inquiries.” These inquiries do not necessarily require chemical testing. These are completed in accordance with an industry practice developed by ASTM (formerly American Society of Testing Materials).

Public Law 107-118
Small Business Liability Relief and Brownfields Revitalization Act, January 11, 2002

- *Small Business Liability Protection & CERCLA*
- *Brownfields Revitalization And Environmental Restoration*
 - *Brownfields Revitalization Funding*
 - *Brownfields Liability Clarifications*
- *State Response Programs*

ASTM E1527 Standard Practice:

Phase I Environmental Site Assessment Process

“The purpose of this practice ... is to define good commercial and customary practice in the United States of America for conducting an environmental site assessment of a parcel of commercial real estate with respect to the range of contaminants within the scope of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and petroleum products. As such, this practice is intended to permit a user to satisfy one of the requirements to qualify for the innocent landowner, contiguous property owner, or bona fide prospective purchaser limitations on CERCLA liability.”

