

RECOGNIZED ENVIRONMENTAL CONDITIONS

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The full statement regarding Recognized Environmental Conditions in ASTM E1527-05 (Standard Practice for Environmental Site Assessments) is as follows. Note that the italicized emphasis is in the original.

1.1.1 Recognized Environmental Conditions—In defining a standard of good commercial and customary practice for conducting an *environmental site assessment* of a parcel of *property*, the goal of the processes established by this practice is to identify *recognized environmental conditions*. The term *recognized environmental conditions* means the presence or likely presence of any *hazardous substances* or *petroleum products* on a *property* under conditions that indicate an existing release, a past release, or a *material threat* of a release of any *hazardous substances* or *petroleum products* into structures on the *property* or into the ground, ground water, or surface water of the *property*. The term includes *hazardous substances* or *petroleum products* even under conditions in compliance with laws. The term is not intended to include *de minimis* conditions that generally do not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies. Conditions determined to be *de minimis* are not *recognized environmental conditions*.

A guide to interpretation of “recognized environmental conditions” in ASTM E1527 is as follows:

1. The second sentence is the actual definition: “The term *recognized environmental conditions* means the presence or likely presence of any *hazardous substances* or *petroleum products* on a *property* under conditions that indicate an existing release, a past release, or a *material threat* of a release of any *hazardous substances* or *petroleum products* into structures on the *property* or into the ground, ground water, or surface water of the *property*.”
2. To determine whether there is a *recognized environmental condition*, the environmental professional must determine the following:
 - a. Whether there is the presence or likely presence of a hazardous substance or petroleum product.
 - b. Whether this hazardous substance or petroleum product is on the property being evaluated.
 - c. Whether the conditions under which the hazardous substance or petroleum product is found indicate one of the following:
 - i. an existing release,
 - ii. a past release, or
 - iii. a material threat of a release
“into structures on the *property* or into the ground, ground water, or surface water of the *property*.”

3. To assist the environmental professional in determining what is to be considered a *recognized environmental condition* the remaining sentences cover add clarifications:
 - a. The third sentence reads: “The term includes *hazardous substances* or *petroleum products* even under conditions in compliance with laws.” This makes it clear that a *recognized environmental condition* includes identified conditions whether or not they comply with the law.
 - b. The last two sentences make it clear that *de minimis* conditions are those that generally do not present a threat to human health or the environment. Therefore, *de minimis* conditions are not *recognized environmental conditions*

Correction of common misunderstandings of “recognized environmental conditions”

1. **Nowhere** in the definition of *recognized environmental condition* is a statement that there is a threat (or risk) to human health or the environment. If a condition is determined to be a *recognized environmental condition*, it must still be determined what is the significance or importance of the condition. Sometimes there is a threat to human health or the environment, but many times there is not any significant threat.
2. The identification of a *recognized environmental condition* does not, by itself, mean it is a threat (or risk) to human health or the environment, or to the use or intended use of a property.
3. The purpose of identifying *recognized environmental conditions* is to provide the reader with a clearly stated list of what the environmental professional determined to fit the criteria for a *recognized environmental condition* so that the reader can then determine how they want to respond to those conditions, including whether to conduct further evaluations or testing, and in particular how they might affect a property transaction.