

**TABLE 1: Summary of Differences Between
ASTM E 1527-13 Phase I Environmental Site Assessments
and NJDEP Preliminary Assessment Reports**

This table summarizes some of the primary differences between the New Jersey Department of Environmental Protection (NJDEP) **Preliminary Assessment Report (PAR)**, pursuant to the April 2013 NJDEP Site Remediation Program Preliminary Assessment Technical Guidance document (Version 1.1), and the N.J.A.C. 7:26E Technical Requirements For Site Remediation; and the ASTM International Practice E 1527-13 Standard Practice for Environmental Site Assessments: **Phase I Environmental Site Assessment** Process (ASTM E 1527-13).

Requirement	Preliminary Assessments	Phase I ESA
1. Regulatory requirement	Regulated under N.J.A.C. 7:26E-3.1 and 3.2. Guidelines established in "Preliminary Assessment Technical Guidance".	Voluntary standard; accepted by USEPA to comply with AAI rule.
2. Regulatory/Developmental History	Site Evaluation Submission (SES) developed soon after ECRA became effective on 12/31/1983. Last version of SES developed in April 1990, and was replaced by the first version of PA Form in December 1993, after the adoption of the <i>Tech Regs</i> in July 1993. This early PA form was used with revisions until the adoption of the SRRA, when the PA Guidance document and current PA Report outline were adopted.	Originally approved in 1993; updated in 1994, 1997, 2000, 2005, and 2013.
3. Legal Protections	Innocent purchaser defense to Spill Act Liability; and Spill Fund Eligibility.	<ul style="list-style-type: none"> - CERCLA innocent landowner defense - Bona fide prospective purchaser exemption to liability - Contiguous property owner defense to liability for migration from off-site property to subject property <p>NOTE: Statutory requirements also must be met to be eligible for liability protection, e.g., taking reasonable steps to stop an identified release</p> <ul style="list-style-type: none"> - Brownfield grants under 104(k)(2)(B)
4. Purpose/Objective	To determine whether contaminants are or were present at a site, or have migrated or are migrating from a site, and thus whether additional remediation is necessary.	Enable a <i>User</i> (e.g. a potential purchaser of property, a potential tenant of property, an owner of property, a lender, or a property manager) to qualify for the <i>innocent landowner</i> , <i>contiguous property owner</i> , or <i>bona fide prospective purchaser limitations</i> on CERCLA liability.

**TABLE 1: Summary of Differences Between
ASTM E 1527-13 Phase I Environmental Site Assessments
and NJDEP Preliminary Assessment Reports**

Requirement	Preliminary Assessments	Phase I ESA
5. Applicability	<ul style="list-style-type: none"> - Required under ISRA (with certain exemptions); - Required if site-wide RAO is desired; - If remediating and/or investigating a site or portion of a site for use as a child care center, or for use as a school; or - If ordered to conduct by NJDEP. 	<ul style="list-style-type: none"> - Commercial real estate (any real property other than property with four or less dwelling units exclusively for residential use); and/or - Brownfields grants under 104(k)(2)(B).
6. Operative phrase	<p><i>Area of Concern (AOC):</i> any existing or former distinct location or environmental medium where any hazardous substance, hazardous waste, or pollutant is known or suspected to have been discharged, generated, manufactured, refined, transported, stored, handled, treated, or disposed, or where any hazardous substance, hazardous waste, or pollutant has or may have migrated.</p>	<p><i>Recognized Environmental Condition (REC):</i> the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment.</p>
7. “De minimis” provision	Not included.	A condition that generally does 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 <i>de minimis</i> conditions are not RECs or CRECs.
8. Responsible Professional	Licensed Site Remediation Professional, who is licensed by the Site Remediation Professionals Licensing Board of New Jersey to perform remediation in the State of New Jersey	Environmental Professional, who possesses sufficient specific education, training, and experience necessary to exercise professional judgment to develop opinions and conclusions regarding conditions indicative of releases or threatened releases on, at, in, or to a property.
9. Contaminants of Inquiry	<ul style="list-style-type: none"> a) Those chemicals/constituents listed in Appendix A pursuant to the Spill Act; b) Those chemicals/constituents identified as a “hazardous waste” pursuant to the Solid Waste Management Act; and c) Those chemicals/constituents identified as a “pollutant” pursuant to the Water Pollution Control Act. 	Specific list of hazardous materials, wastes, and petroleum products included in Table 302.4 in USEPA 40 CFR Ch. I (7–1–01 Edition).
10. Radioactive Materials	Report should document the location and source of any radioactive materials used stored or disposed of on-site.	Not required

**TABLE 1: Summary of Differences Between
ASTM E 1527-13 Phase I Environmental Site Assessments
and NJDEP Preliminary Assessment Reports**

Requirement	Preliminary Assessments	Phase I ESA
11. Scope of Site reconnaissance	<ul style="list-style-type: none"> - Subject property only (although review of adjacent and/or nearby “high risk” facilities necessary for child care centers) - Off-site properties considered if off-site impact is suspected to have migrated onto subject property. 	Site, adjoining properties, and surrounding properties (to varying degrees).
12. On-site inspection	Must inspect all areas of concern.	Areas not inspected considered to be <i>data gaps</i> (see Requirement No. 23 below).
13. Interviews	<ul style="list-style-type: none"> - Current and former site personnel; - Local and county governmental authorities; - Local or county historical societies; and/or - Neighboring property owners; 	<ul style="list-style-type: none"> - Past and Present Owners and Occupants (as deemed necessary by the EP); - State and/or local government officials; and/or - One or more owners or occupants of neighboring or nearby properties at abandoned properties where there is evidence of potential unauthorized uses of the abandoned property or evidence of uncontrolled access to the abandoned property.
14. Historical Research Timeframes	1932 or before the site was developed and naturally vegetated, whichever is <u>later</u> .	Back to the property’s first developed use, or back to 1940, whichever is <u>earlier</u> .
15. Historical Sources	Unrestricted.	Prescriptive, but required source list can be enhanced at the discretion of the Environmental Professional.
16. Environmental permits	Summary of environmental permits for Site facility required.	Not required.
17. Review of Government Records	Must review government records if they are likely to contain information pertinent to the identification of all potential current and historical areas of concern.	Must review information from <i>standard sources</i> that is <i>reasonably ascertainable</i> (see Requirement No. 24 below).
18. Evaluation of closed spill cases	Must compare contaminant concentrations remaining in each closed AOC with the current applicable remediation standards to determine whether they are: i) below the standards applicable at the time of the comparison; ii) above the standards applicable at the time of the comparison by less than an order of magnitude; or iii) above the standards applicable at the time of the comparison by more than an order of magnitude. Order of magnitude evaluations for	Such areas are defined as <i>Historical Recognized Environmental Conditions</i> (HRECs): a past release of any hazardous substances or petroleum products that has occurred in connection with the property, and has been addressed to the satisfaction of the applicable regulatory authority, or meeting unrestricted use criteria established by a regulatory authority, without subjecting the property to any required controls (for example, property use restrictions, activity and use limitations,

**TABLE 1: Summary of Differences Between
ASTM E 1527-13 Phase I Environmental Site Assessments
and NJDEP Preliminary Assessment Reports**

Requirement	Preliminary Assessments	Phase I ESA
	soils are only applicable for the direct contact (ingestion/dermal and inhalation) exposure pathway. Order of magnitude evaluations are applicable for ground water and surface water, but not for site-specific impact to ground water soil remediation standards.	institutional controls, or engineering controls). Comparison of historic data against current standards is necessary to determine whether the HREC is in fact a current REC.
19. Search for engineering or institutional controls	<p>Required; however, the following should be presented in the report, if applicable:</p> <ul style="list-style-type: none"> • Was an engineering control used to address contamination left on site? • If yes, is this engineering control being properly maintained? • Did the remedy address all of the residual soil contamination? • Is the remedy working as designed? • Have required biennial certifications been submitted? • Is a remedial action permit in place? 	A condition considered by the Environmental Professional to be a <i>controlled recognized environmental condition</i> (CREC) shall be listed in the findings section of the report, and as a REC in the conclusions section of the report. A CREC is a REC resulting from a past release of hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority, with hazardous substances or petroleum products allowed to remain in place subject to the implementation of required controls (for example, property use restrictions, activity and use limitations, institutional controls, or engineering controls). The Environmental Professional does not need to evaluate or confirm the adequacy, implementation, or continued effectiveness of the required control that has been, or is intended to be, implemented.
20. Identify Environmental Liens	Not specifically required.	Yes (Users responsibility to obtain).
21. Specialized Knowledge and Relationship of Purchase Price to Value of Property if not contaminated	Not required from Responsible Party.	Required from report User.
22. Commonly known information and degree of obviousness of contamination	Not required from Responsible Party.	Required from report User.

**TABLE 1: Summary of Differences Between
ASTM E 1527-13 Phase I Environmental Site Assessments
and NJDEP Preliminary Assessment Reports**

Requirement	Preliminary Assessments	Phase I ESA
23. Data Gaps	Not Applicable - There is no “Reasonably Ascertainable” provision that would allow the investigator to abandon a search for information based solely on time or cost constraints.	<i>Data gaps</i> must be discussed in report. <i>Data gaps</i> may result from incompleteness in any of the activities required [pursuant to the Phase I standard], including, but not limited to site reconnaissance, and interviews. Environmental Professional must determine if the data gaps are <i>significant data gaps</i> .
24. “Reasonably Ascertainable” provision	There is no “Reasonably Ascertainable” provision of the Technical Regulations that allow the investigator to abandon a search for information based solely on time or monetary constraints.	Included. <i>Reasonably Ascertainable</i> means “information that is (1) publicly available, (2) obtainable from its source within reasonable time and cost constraints, and (3) practically reviewable”. Information that is <i>practically reviewable</i> means that “the information is provided by the source in a manner and in a form that, upon examination, yields information relevant to the subject property without the need for extraordinary analysis of irrelevant data.”
25. Grouping of environmental conditions	All areas of concern identified during a PA Report are listed individually, and are similarly grouped.	Environmental conditions identified during a Phase I are divided into four groups: <ul style="list-style-type: none"> ➤ Recognized Environmental Conditions (RECs) (see Requirement No. 6 above); ➤ Historical Recognized Environmental Conditions (HRECs) (see Requirement No. 18 above); ➤ Conditional Recognized Environmental Conditions (CRECs) (see Requirement No. 19 above); and ➤ De minimis conditions (see Requirement No. 7 above).
26. Report format	A Preliminary Assessment Data Gathering Checklist is included in the PAR Guidance Document and is recommended to be followed, though writer’s discretion is allowed.	The report for the Phase I ESA should generally follow the recommended report format attached as an Appendix in the ASTM standard, unless otherwise required by the User, though writer’s discretion is allowed.

**TABLE 1: Summary of Differences Between
ASTM E 1527-13 Phase I Environmental Site Assessments
and NJDEP Preliminary Assessment Reports**

Requirement	Preliminary Assessments	Phase I ESA
27. Figures to be included in report	<ul style="list-style-type: none"> - Historical maps and figures showing locations of AOCs and current and historical site operations, including sub-grade features; - Scaled site plans; and - Scaled historical site plans and facility as-built construction drawings must be included, if available. 	None required.
28. Requirement for recommending further investigation	<p>The report must include one of the following recommendations for each AOC:</p> <ul style="list-style-type: none"> i) The AOC is potentially contaminated and additional investigation or remediation is required; or ii) The AOC is not suspected to contain contaminants above the applicable remediation standards, and no further investigation or remediation is required. Include the rationale behind the determination. 	<p>Recommendations for further investigation are not required except in the unusual circumstance when greater certainty is required regarding the identified REC(s). This opinion is not intended to constitute a requirement that the Environmental Professional include any recommendations for Phase II or other assessment activities.</p>
29. Shelf Life of Report	<p>No specific time limits, notwithstanding SRRA regulatory and mandatory timeframes; can obtain a waiver from NJDEP if remediation is in progress or if there haven't been any material changes since a previous PAR was performed.</p> <p>If a PAR is performed for due diligence purposes, it should best be completed immediately prior to the property acquisition.</p>	<p>Report must be completed less than <u>180 days</u> prior to the date of acquisition of the property or (for transactions not involving an acquisition) the date of the intended transaction.</p> <p>Report can be “updated” within <u>one year</u> prior to the date of acquisition of the property or (for transactions not involving an acquisition) the date of the intended transaction may be used provided that five components of the Phase I are conducted or updated within 180 days of the date of purchase or the date of the intended transaction including (i) interviews; (ii) lien search; (iii) governmental record review; (iv) visual inspection; and (v) Environmental Professional declaration.</p>

**TABLE 2: Conceptual Cost Comparison Between
ASTM E 1527-13 Phase I Environmental Site Assessments
and NJDEP Preliminary Assessment Reports**

This table provides conceptual cost ranges for NJDEP Preliminary Assessment (PA) Reports and ASTM Phase I Environmental Site Assessments (ESAs), current as of 2015.

Land Use	Land Use Example	Documentation to Review	Preliminary Assessment	Phase I ESA
Residential / Virgin Undeveloped Land	<ul style="list-style-type: none"> • Vacant undeveloped land • Multi-family residence • House of worship (or equivalent) • Parking lot 	<100 pages	\$2,000 - \$4,000	\$1,500 - \$3,500
Light Commercial	<ul style="list-style-type: none"> • Offices • Warehouse storage/distribution • Food manufacturing/distribution • Retail sale of non-hazardous materials • Hotel • School/daycare center 	100 – 500 pages	\$2,500 - \$6,500	\$2,000 - \$5,500
Heavy Commercial / Light Manufacturing	<ul style="list-style-type: none"> • Dry cleaner • Auto repair/filling station • Product assembly/repair • Printing facilities • Farm • Hospital 	500 – 5,000 pages	\$4,500 - \$10,000	\$3,500 - \$7,500
Heavy Manufacturing / Heavy Industrial	<ul style="list-style-type: none"> • Chemical manufacturing • Petroleum refinery • Pharmaceutical manufacturing 	5,000+ pages	\$8,000 - \$25,000	\$5,000 - \$20,000
Commercial / Manufacturing / Industrial	<ul style="list-style-type: none"> • Portfolio projects 	5,000+ pages	\$8,000 - \$25,000	\$5,000 - \$20,000

**TABLE 2: Conceptual Cost Comparison Between
ASTM E 1527-13 Phase I Environmental Site Assessments
and NJDEP Preliminary Assessment Reports**

Notes and Disclaimers:

- A generic set of site conditions were used to develop these costs. Site conditions are highly variable, and many factors may control the actual cost to perform requirements to strictly conform to each assessment.
- This information is provided for conceptual purposes only, and should be used for that purpose only. Nothing in this table should be construed or relied upon as providing legal advice.
- These cost ranges reflect a wide budget variation across the environmental consulting (specifically, PA and Phase I ESA) industry.
- Site- or project-specific conditions, circumstances, or requirements may likely affect the final assessment budget beyond the ranges listed above.
- These costs do not include associated tasks, such as the preparation of regulatory-required forms designed to accompany the report.
- Site assessments of older properties in more developed (e.g., urban) areas will generally cost more than site assessments of more recently developed properties (e.g., in rural or less established areas).