

By now most environmental professionals can agree that the American Society for Testing and Materials (ASTM International) E1527-13 Standard Practice for Environmental Site Assessments offers somewhat broad definitions for *recognized environmental conditions (REC)* that can be cause for interpretation and sometimes debate. The most recent Standard (2013) adds two more definitions, *controlled recognized environmental condition (CREC)* and *historical recognized environmental condition (HREC)*. On the surface these designations appear straightforward, until they are put into practice in what are often complex or inconsistent situations. And the question can arise – does it matter?

ASTM Definitions

The ASTM Standard defines CREC as “a recognized environmental condition resulting from a past release of hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority (for example, as evidenced by the issuance of a no further action letter or equivalent, or meeting risk-based criteria established by 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 ASTM Standard defines HREC as “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”

How to Interpret

The key factor for determining if a REC might be a HREC or a CREC is about **control**.

For a CREC, the condition or release has been investigated by a regulatory authority, and perhaps even issued some sort of closure certification. It also will have some obligatory control such as an activity and use limitation (i.e., groundwater is contaminated enough to limit or prevent use, such as no drinking allowed) but the property can still have some restricted use, for example only industrial development, no residential or daycare, etc. The word that resonates for CRECs is *restricted*.

For a HREC, the past release or condition has been sufficiently investigated and/or cleaned up so that no property use restrictions, activity and use limitations, institutional controls, or engineering controls are required. The property is therefore considered *unrestricted* and can often be acquired and redeveloped without the expense and limitations imposed by use controls or liability concerns attached to properties with RECs or CRECs. In this regard it would matter greatly whether environmental conditions can be considered restricted CRECs or unrestricted HRECs.

Note that HRECs are not just old environmental conditions. For example, a property that had former use as a gas station but has no current petroleum storage tanks or other service station remnants should not be considered to have historical RECs simply because the sources of past releases are no longer present. Unless the past conditions have been adequately characterized, and documentation is available, potential issues are still best considered RECs.

Recognized Environmental Condition (REC)

Release, indicative of a release, material threat of future release

Controlled Recognized Environmental Condition (CREC)

Past release that requires controls and/or *restricted* property use

Historical Recognized Environmental Condition (HREC)

Past release sufficiently addressed, requiring no specific controls and property use is *unrestricted*

Case Study Example – An industrial site in Wisconsin offers a good example of what affect if any a range of RECs can have on property use. Three main RECs emerged from the pre-acquisition Phase I environmental site assessment conducted on the property: 1) an oil-filled electrical transformer with un-documented polychlorinated biphenyl (PCB) content; 2) an adjacent closed municipal solid waste landfill with releases to groundwater upgradient from the subject property; and 3) a past solvent release that impacted soils on the subject property.

The transformer had no associated documentation of maintenance or testing for PCB content and was therefore identified in the Phase I report as a REC. The facility was obligated to test the transformer as a condition of property transfer.

For the other two RECs, substantial regulatory records were available and were practically reviewable within the scope of the Phase I. The adjacent landfill had an extensive monitoring well network that showed while some volatile organic compounds (VOCs) were detected downgradient from the landfill, concentrations had diminished since the landfill had been closed and no VOCs were detected at the furthest downgradient wells. The subject property had no wells and no intended future use of groundwater, and property use was to remain industrial. The environmental professional was able to conclude that there did not appear to be an imminent threat to the subject property from the closed landfill. The landfill maintained a program of continued monitoring, with specific response actions if the contaminant plume did not further diminish over time or did reach the property boundaries. Therefore, this REC could be considered controlled.

A file review with Wisconsin Department of Natural Resources (DNR) showed that the solvent release had been remediated to the satisfaction of the DNR, who issued a closure letter with no further investigation requirements or use restrictions. This REC therefore fit the definition of a HREC and no further investigation was recommended in the Phase I.



The undocumented PCB content of an onsite electrical transformer was listed as a REC for the subject property.



An adjacent closed municipal solid waste landfill that was still under a groundwater monitoring program was deemed a CREC.



A past solvent release on the subject property had been cleaned up to regulatory standards and fit the definition of a HREC.

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