

# Advice & Counsel

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# An Environmental Assessment-What Are They Looking For?

Dear Advice and Counsel, I own a small plating shop and have someone interested in buying the business along with the building where it is located. The potential buyer wants to have an "environmental assessment." I'm not sure what that means (and I don't want to tell that to the buyer!). Can you fill me in?

## Signed, Happy Seller

Dear Happy,

Congratulations on finding an adventuresome spirit who wants to get into the metal finishing business! Environmental assessments (EAs) are conducted by professional engineering firms to accomplish one major task: Protect the lender (mortgager) on the property from a major financial (spelled "ENVIRONMENTAL") disaster, in case of foreclosure.

Even though there are laws in certain states that tend to protect the lender from financial harm—if the loan was made in good faith, but the property eventually becomes a "Superfund" site—lenders still insist on an EA to obtain a comfortable feeling about what they might be getting involved with.

Each lending institution has a list of approved engineering firms that can conduct acceptable EAs, so you cannot just pick your own firm. You and the buyer should go through the list together and pick a firm that has some knowledge of the industry you are in. Here are the basic things included in an EA:

1. Overview of

An Environmental Assessment The engineer will ascertain/evaluate:

- The site location, legal description of the property.
- The geological formation of the site.

- An attempt to determine the historical use of the property.
- How neighboring property is used.
- Your company's regulatory compliance level.
- Whether your business or neighboring businesses are on any "list" of known contaminated sites.
- Whether your business or neighboring businesses are on any "list" of known sites with underground storage tanks.
- Your material (chemical) handling procedures.
- Your chemical waste management procedures.
- Your air emissions.
- Whether or not your site contains asbestos, and the condition of it, if found.
- Whether or not your site contains PCBs, and the condition of containers of PCBs, if found.

2. Details/SiteLocation The type of building, parking, landscaping are noted. A walk around the property will be made to determine if any new or distressed vegetation exists. New plants, or distressed/ discolored ground areas are indications of possible chemical contamination of the ground. Gravel parking areas may be contaminated with oil/ gasoline from poorly maintained automobiles.

The typography of the land surrounding your building will be laid out. An attempt is made to determine if your property is a "low point" that might act as a collector of ground water contamination. The presence of current or past water wells will be noted.

#### 3. History

A review of available historical documents will be made to determine if your property was ever used in "high risk" businesses, such as gasoline stations, paint factories, chemical manufacturing, etc. An interview with past owners of the property and emergency response agencies will be sought to establish if there ever was a "disaster" on the site, such as a flood, earthquake, fire or chemical spill. Aerial photography conducted periodically by the county will be reviewed to ascertain any major changes in appearance of the property, the building and neighboring properties.

4. Regulatory Status

While this may not have a direct impact on your buyer's ability to get a loan, the engineer conducting the EA will attempt to determine if your company is a "Tier I" firm—a company that actively maintains compliance with all regulations imposed upon it. Compliance with water, air, hazardous waste, chemical reporting, and chemical storage requirements is an indication of a company that most likely has not caused damage to the property. The engineer will conduct a search of various "lists" provided by the government (via the Internet) of sites that contain leaking underground storage tanks, chemical dumps, land fills, contaminated wells, etc. The engineer will also go over your record-keeping status for federal and local regulations.

### 5. Overall-Visual

A walk-through will be made to determine the level of housekeeping, and determine the presence of buried pipes and in-ground trenches that could convey chemicals. The floor will be inspected for cracks and damage that might allow chemicals to leak into the ground below. Chemical storage areas will be inspected for proper containerization and floor inspection. The presence and condition of any in-ground pits will be noted. Insulation and building materials will be inspected for the possible presence of asbestos materials. Important here is the condition of any possible asbestos-containing materials (a "friable" condition would indicate a major cost for clean-up). Fluorescent lighting and electrical equipment will be inspected to determine if any might contain leaking polychlorinated-biphenols (PCBs), which also could indicate a major clean-up cost.

Materials suspected of containing asbestos or PCBs are typically sampled and tested to confirm their presence.

#### 6. Material Handling

The flow of raw chemical materials, products and wastes will be charted. Maintenance of all equipment handling chemicals will be ascertained, and the waste storage area will be inspected to determine if you are strictly adhering to the maximum allowable storage periods for chemical wastes (failure to comply with these indicates to the lender that they might inherit a bunch of drums at some point in the future). Correct labeling, segregation and manifesting will also be high on the list of activities the engineer will look for.

7. Wastewater Treatment The wastewater treatment system will be inspected to determine if the floor underneath has allowed ground contamination, and if you are regularly complying with discharge standards. If your company is/has been listed as a significant violator, this will be noted in the EA report. The presence of any possible hidden or abandoned underground sewer lines would also be a negative finding.

## 8. Air Emissions

If your facility has an air permit, compliance records will be examined.

Emission control equipment will be inspected to determine if it might be contaminating the ground or storm water.

The engineer's report will present all the findings and backup data, along with one of two recommendations:

- (a) The facility appears not to contain/ offer any environmental hazards that can be ascertained with a superficial evaluation.
- (b) The facility appears to contain evidence of environmental damage that should be further evaluated through a Phase II evaluation.

You want to avoid Phase II evaluations because they typically cost tens of thousands of dollars, involve coring/drilling concrete, soil sampling and testing, etc. Phase I assessments typically cost around \$3,000–\$10,000, depending on the facility size. PESF