

Environmental Diligence in the Era of PFAS: The Pitfalls of Simply Ordering the Phase I

Published by the American Bar Association's *Probate & Property* Magazine

November/December 2023

The article explores issues attorneys must consider when evaluating whether a standard Phase I environmental site assessment (ESA) provides a sufficient, or even appropriate, scope of environmental diligence for clients buying, leasing or financing a property or business. Phase I ESAs exclude a number of issues of potential concern, including regulatory compliance, emerging contaminants such as per- and polyfluoroalkyl substances (PFAS), and asbestos, lead, radon and wetlands.

Whether to add non-scope considerations to the Phase I ESA is a business decision to be made on a case-by-case basis. Attorneys should anticipate future marketability concerns associated with non-scope matters, such as the impact of the proposed federal regulation of some PFAS as Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) hazardous substances and as substances subject to National Primary Drinking Water Regulations.

["Environmental Diligence in the Era of PFAS: The Pitfalls of Simply Ordering the Phase I,"](#) *Probate & Property*, November/December 2023

**Subscription required for article access.*

CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



Nancy J. Rich

+1.312.902.5536

nancy.rich@katten.com

Attorney advertising. Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

©2026 Katten Muchin Rosenman LLP.

All rights reserved. Katten refers to Katten Muchin Rosenman LLP and the affiliated partnership as explained at katten.com/disclaimer.