



Designation: ~~E1527–13~~ E1527 – 21

Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process¹

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1. Scope

1.1 *Purpose*—The purpose of this practice is to define good commercial and customary practice in the United States of America for conducting an *environmental site assessment*² of a parcel of *commercial real estate* with respect to the range of contaminants within the scope of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. §9601)§ 9601) and *petroleum products*. As such, this practice is intended to permit a *user* to satisfy one of the requirements to qualify for the *innocent landowner*, *contiguous property owner*, or *bona fide prospective purchaser* limitations on CERCLA liability (hereinafter, the “*landowner liability protections*,” or “*LLPs*”): that is, the practice that constitutes *all appropriate inquiries* into the previous ownership and uses of the *property* consistent with good commercial and customary ~~practice standards and practices~~ as defined at 42 U.S.C. §9601(35)(B)§ 9601(35)(B). (See **Appendix X1** for an outline of CERCLA’s liability and defense provisions.) Controlled substances are not included within the scope of this ~~standard practice~~. Persons conducting an *environmental site assessment* as part of an EPA Brownfields Assessment and Characterization Grant awarded under CERCLA 42 U.S.C. §9604(k)(2)(B)§ 9604(k)(2)(B) must include controlled substances as defined in the Controlled Substances Act (21 U.S.C. §802)§ 802) within the scope of the assessment investigations to the extent directed in the terms and conditions of the specific grant or cooperative agreement. Additionally, an evaluation of *business environmental risk (BER)* associated with a parcel of *commercial real estate* may necessitate investigation beyond that identified in this practice (see ~~Sections 1.3.1.4 and Section 1.3~~).

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1.1.1 *Recognized Environmental Conditions*—~~In defining a standard of good commercial and customary practice for conducting an~~ The *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* ~~condition~~ means (1) the presence of *hazardous substances* or *petroleum products* in, on, or at the *subject property* due to a *release to the environment*; (2) the likely presence of ~~any hazardous substances or petroleum products~~ in, on, or at the *subject property*; ~~(due to a release) due to any or likely release to the environment; (or 2(3) under conditions indicative of a the presence of release hazardous substances to the petroleum environment products; or (in, on, or at the 3subject property) under conditions that pose a material threat of a future release to the environment. A De de minimis condition conditions are is not a recognized environmental conditions:condition.~~

1.1.2 *Petroleum Products*—*Petroleum products* are included within the scope of this practice because they are of concern with respect to ~~many parcels of commercial real estate~~ and current custom and usage is to include an inquiry into the presence of *petroleum products* when doing an *environmental site assessment* of *commercial real estate*. Inclusion of *petroleum products* within the scope of this practice is not based upon the applicability, if any, of CERCLA to *petroleum products*. ~~(See X1.1.2.1 for discussion of petroleum exclusion to CERCLA liability.)~~

1.1.3 *CERCLA Requirements Other Than Appropriate Inquiries*—This practice does not address whether requirements in addition

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² All definitions, descriptions of terms, and acronyms are defined in Section 3. Whenever terms defined in 3.2 are used in this practice, they are in *italics*.

to *all appropriate inquiries* have been met in order to qualify for the *LLPs* (for example, the duties specified in 42 U.S.C. §9607(b)(3)(a) §§ 9607(b)(3)(a) and (b) and cited in **Appendix X1**, including the continuing obligation not to impede the integrity and effectiveness of *activity and use limitations [AULs]*, (~~AULs~~), or the duty to take reasonable steps to prevent *releases*, or the duty to comply with legally required *release* reporting obligations).

1.1.4 *Other Federal, State, and Local Environmental Laws*—This practice does not address requirements of any state or local laws or of any federal laws other than the *all appropriate inquiries* provisions of the *LLPs*. *Users* are cautioned that federal, state, and local laws may impose environmental assessment obligations that are beyond the scope of this practice. *Users* should also be aware that there are likely to be other legal obligations with regard to *hazardous substances* or *petroleum products* discovered ~~on~~ in, on, or at the *subject property* that are not addressed in this practice and that may pose risks of civil and/or criminal sanctions for ~~non-compliance~~.³

1.1.5 *Documentation*—The scope of this practice includes research and reporting requirements that support the *user's* ability to qualify for the *LLPs*. As such, sufficient documentation of all sources, records, and resources utilized in conducting the inquiry required by this practice must be provided in the written *report* (refer to 8.1.9 and 12.2).

1.2 *Objectives*—Objectives guiding the development of this practice are (1) to synthesize and put in writing good commercial and customary practice for *environmental site assessments* for *commercial real estate*; (2) to facilitate high quality, standardized *environmental site assessments*; (3) to provide a practical and reasonable *standard practice* for conducting *all appropriate inquiries*; and (4) to clarify an industry standard for *all appropriate inquiries* in an effort to guide legal interpretation of the *LLPs*.

1.3 *Units*—The values stated in inch-pound units are to be regarded as the standard. The values given in parentheses are mathematical conversions to SI units that are provided for information only and are not considered standard.

1.4 *Considerations Beyond Scope*—The use of this practice is strictly limited to the scope set forth in this section. Section 13 of this practice identifies, for informational purposes, certain environmental conditions (not an all-inclusive list) that may exist ~~on~~ at a *subject property* that are beyond the scope of this practice, but may warrant consideration by parties to a *commercial real estate transaction*. The need to include an investigation of any such conditions in the *environmental professional's* scope of services should be evaluated based upon, among other factors, the nature of the *subject property* and the reasons for performing the assessment (for example, a more comprehensive evaluation of *business environmental risk*) and should be agreed upon between the *user* and *environmental professional* as additional services beyond the scope of this practice ~~prior to~~ before initiation of the *environmental site assessment* process.

<https://standards.iteh.ai/catalog/standards/sist/6cb41d8-b33e-49ed-a90a-706a853b2eb1/astm-e1527-21>

1.4 *Organization of This Practice*—This practice has thirteen sections and five appendixes. Section 1 is the Scope. Section 2 is Referenced Documents. Section 3, Terminology, has definitions of terms not unique to this practice, descriptions of terms unique to this practice, and acronyms. Section 4 is Significance and Use of this practice. Section 5 provides discussion regarding *activity and use limitations*. Section 6 describes *User's Responsibilities*. Sections 7 – 12 are the main body of the *Phase I Environmental Site Assessment*, including evaluation and *report* preparation. Section 13 provides additional information regarding non-scope considerations (see 1.3). The appendixes are included for information and are not part of the procedures prescribed in this practice. **Appendix X1** explains the liability and defense provisions of CERCLA that will assist the *user* in understanding the *user's* responsibilities under CERCLA; it also contains other important information regarding CERCLA, the *Brownfields Amendments*, and this practice. **Appendix X2** provides the definition of the *environmental professional* responsible for the *Phase I Environmental Site Assessment*, as required in the “*All Appropriate Inquiries*” Final Rule (40 C.F.R. Part 312). **Appendix X3** provides an optional *User Questionnaire* to assist the *user* and the *environmental professional* in gathering information from the *user* that may be material to identifying *recognized environmental conditions*. **Appendix X4** provides a recommended table of contents and *report* format for a *Phase I Environmental Site Assessment*. **Appendix X5** summarizes non-scope considerations that persons may want to assess.

1.5 *This practice offers a set of instructions for performing one or more specific operations. This document cannot replace education or experience and should be used in conjunction with professional judgment. Not all aspects of this practice may be*

³ Many states and other jurisdictions have differing definitions for terms used throughout this practice, such as “*release*” and “*hazardous substance*.” If a *Phase I Environmental Site Assessment* is being conducted to satisfy state requirements and to qualify for the state (or other jurisdiction) equivalent of *LLPs*, *users* and *environmental professionals* are cautioned and encouraged to consider any differing jurisdictional requirements and definitions while performing the *Phase I Environmental Site Assessment*. Substances that are outside the scope of this practice (for example, emerging contaminants that are not *hazardous substances* under CERCLA) may be regulated under state law and may be federally regulated in the future. Although the presence or any *release*/threatened *release* of these substances are “non-scope considerations” under this practice, the *user* may nonetheless decide to include such substances in the defined scope of work for which the *environmental professional* conducting the *Phase I Environmental Site Assessment* is engaged. See 13.1.2.

applicable in all circumstances. This ASTM standard is not intended to represent or replace the standard of care by which the adequacy of a given professional service must be judged, nor should this document be applied without consideration of a project's many unique aspects. The word "Standard" in the title means only that the document has been approved through the ASTM consensus process.

1.6 *This standard does not purport to address all of the safety concerns, if any, associated with its use. It is the responsibility of the user of this standard to establish appropriate safety, health, and environmental practices and determine the applicability of regulatory limitations prior to use.*

1.6 *This practice offers a set of instructions for performing one or more specific operations. This document cannot replace education or experience and should be used in conjunction with professional judgment. Not all aspects of this practice may be applicable in all circumstances. This ASTM standard is not intended to represent or replace the standard of care by which the adequacy of a given professional service must be judged, nor should this document be applied without consideration of a project's many unique aspects. The word "Standard" in the title means only that the document has been approved through the ASTM consensus process.*

1.7 *This international standard was developed in accordance with internationally recognized principles on standardization established in the Decision on Principles for the Development of International Standards, Guides and Recommendations issued by the World Trade Organization Technical Barriers to Trade (TBT) Committee.*

2. Referenced Documents

2.1 ASTM Standards:⁴

[E2091 Guide for Use of Activity and Use Limitations, Including Institutional and Engineering Controls](#)

[E2247 Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property](#)

[E2600 Guide for Vapor Encroachment Screening on Property Involved in Real Estate Transactions](#)

[E2790 Guide for Identifying and Complying With Continuing Obligations](#)

2.2 Federal Statutes:⁵

[Comprehensive Environmental Response, Compensation, and Liability Act of 1980 \("CERCLA" or "Superfund"\), as amended by Superfund Amendments and Reauthorization Act of 1986 \("SARA"\) and Small Business Liability Relief and Brownfields Revitalization Act of 2002 \("Brownfields Amendments"\), 42 U.S.C. §§9601-9601 et seq.](#)

[Emergency Planning and Community Right-To-Know Act of 1986 \("EPCRA"\), 42 U.S.C. §§11001-11001 et seq.](#)

[Freedom of Information Act, 5 U.S.C. §552, as amended by Public Law No. 104-231, 110 Stat. 3048](#)

[Resource Conservation and Recovery Act \(also referred to as the Solid Waste Disposal Act\), as amended \("RCRA"\), 42 U.S.C. §6901-6901 et seq.](#)

2.3 OSHA Standard:

[OSHA Hazard Communication Standard \(HCS\), 29 C.F.R. § 1910.1200⁶](#)

2.4 USEPA Documents:⁷

["All Standards and Practices for All Appropriate Inquiries" Final Rule, Rule \(AAI\), 40 C.F.R. Part 312](#)

[Chapter 1 EPA, Subchapter J-Superfund, Superfund, Emergency Planning, and Community Right-To-Know Programs, 40 C.F.R. Parts 300-399](#)

[USEPA "Enforcement Discretion Guidance Regarding the Affiliation Language of CERCLA's Bona Fide Prospective Purchaser and Contiguous Property Owner Liability Protections" \(September 21, 2011\)](#)

[USEPA "Revised Enforcement Guidance Regarding the Treatment of Tenants Under the CERCLA Bona Fide Prospective Purchaser Provision" \(December 5, 2012\)](#)

[USEPA "Enforcement Discretion Guidance Regarding Statutory Criteria for Those Who May Qualify as CERCLA Bona Fide Prospective Purchasers, Contiguous Property Owners, or Innocent Landowners" \("Common Elements Guidance"\) \(July 29, 2019\)](#)

[USEPA "Superfund Liability Protections for Local Government Acquisitions after the Brownfields Utilization, Investment, and Local Development Act of 2018" \(June 15, 2020\)](#)

[National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300](#)

2.4 Other Federal Agency Document:

[OSHA Hazard Communication Regulation, 29 C.F.R. §1910.1200](#)

⁴ For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org. For *Annual Book of ASTM Standards* volume information, refer to the standard's Document Summary page on the ASTM website.

⁵ Available from <https://uscode.house.gov/>.

⁶ Available from www.osha.gov.

⁷ Available from www.epa.gov.

3. Terminology

3.1 This section provides definitions, descriptions of terms, and a list of acronyms for many of the words used in this practice. The terms are an integral part of this practice and are critical to an understanding of the practice and its use.

3.2 Definitions:

3.2.1 ~~abandoned property~~—property, *n*—~~property~~ that can be presumed to be deserted, or an intent to relinquish possession or control can be inferred from the general disrepair or lack of activity thereon such that a reasonable person could believe that there was an intent on the part of the current *owner* to surrender rights to the *property*.

3.2.2 ~~activity and use limitations~~—limitations (AULs), *n*—legal or physical restrictions or limitations on the use of, or access to, a site or facility: (1) to reduce or eliminate potential exposure to *hazardous substances* or *petroleum products* in the soil, soil vapor, groundwater, and/or surface water on the *property*, or (2) to prevent activities that could interfere with the effectiveness of a response action, in order to ensure maintenance of a condition of no significant risk to public health or the environment. These legal or physical restrictions, which may include *institutional* and/or *engineering controls*, are intended to prevent adverse impacts to individuals or populations that may be exposed to *hazardous substances* and *petroleum products* in the soil, soil vapor, groundwater, and/or surface water on the *property*. See **Note 1**.

Note 1—The term *AUL* is taken from Guide **E2091** to include both legal (that is, institutional) and physical (that is, engineering) controls within its scope. Other agencies, organizations, and jurisdictions may define or utilize these terms differently (for example, EPA and California do not include physical controls within their definitions of “*institutional controls*.” Department of Defense and International County/City Management Association use “*Land Use Controls*.” The term “*land use restrictions*” is used but not defined in the *Brownfields Amendments*).

3.2.2.1 Discussion—

The term *activity and use limitations (AULs)* is taken from Guide **E2091** to include both legal (that is, institutional) and physical (that is, engineering) controls within its scope. Other agencies, organizations, and jurisdictions may define or utilize these terms differently (for example, EPA and California do not include physical controls within their definitions of “*institutional controls*.” Department of Defense and International County/City Management Association use “*Land Use Controls*.” The term “*land use restrictions*” is used but not defined in the *Brownfields Amendments*).

3.2.3 ~~actual knowledge~~—knowledge, *n*—the knowledge actually possessed by an individual who is a real person, rather than an entity. *Actual knowledge* is to be distinguished from constructive knowledge that is knowledge imputed to an individual or entity.

3.2.4 ~~adjoining properties~~—properties, *n*—any real *property* or *properties* the border of which is contiguous or partially contiguous with that of the *subject property*, or that would be contiguous or partially contiguous with that of the *subject property* but for a street, road, or other public thoroughfare separating them.

3.2.5 ~~aerial photographs~~—photographs, *n*—photographs taken from an aerial platform with sufficient resolution to allow identification of development and activities of areas encompassing the *activities property*. Aerial photographs are often available from government agencies or private collections unique to a local area. See **8.3.4.1** of this practice.

3.2.6 ~~all appropriate inquiries~~—inquiries, *n*—that inquiry constituting *all appropriate inquiries* into the previous ownership and uses of the *subject property* consistent with good commercial and customary practice as defined in CERCLA, 42 U.S.C. §9601(35)(B), U.S.C. § 9601(35)(B) and 40 C.F.R. Part 312, that will qualify a party to a *commercial real estate transaction* for one of the threshold criteria for satisfying the *LLPs* to CERCLA liability (42 U.S.C. §9601(35)(A) & (B), §9607(b)(3), §9607(q); and §9607(r)); U.S.C. §§ 9601(35)(A) & (B), § 9607(b)(3), § 9607(q), and § 9607(r)), assuming compliance with other elements of the defense. See **Appendix XI**.

3.2.7 ~~approximate minimum search distance~~—distance, *n*—the area for which records must be obtained and reviewed pursuant to Section 8 subject to the limitations provided in that section. This may include areas outside the *subject property* and shall be measured from the nearest *subject property* boundary. This term is used in lieu of radius to include irregularly shaped *properties*.

3.2.8 ~~bona fide prospective purchaser liability protection~~—[42 U.S.C. § 9607(r)], *n*—~~(42 U.S.C. §9607(r))~~—a person may qualify as a *bona fide prospective purchaser* if, among other requirements, such person made “*all appropriate inquiries* into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.” Knowledge of contamination resulting from *all appropriate inquiries* would not generally preclude this liability

protection. A person must make *all appropriate inquiries* on or before the date of purchase. The facility must have been purchased after January 11, 2002. See **Appendix X1** for the other necessary requirements that are beyond the scope of this practice.

3.2.9 ~~*Brownfields Amendments*~~—*Amendments, n*—amendments to CERCLA pursuant to the Small Business Liability Relief and Brownfields Revitalization Act, Pub. L. No. 107-118 (2002), 42 U.S.C. §§~~9601~~ U.S.C. § 9601 *et seq.*

3.2.10 ~~*building department records*~~—*records, n*—those records of the local government in which the *subject property* is located indicating permission of the local government to construct, alter, or demolish improvements on ~~the~~ *property*. ~~Often building department records are located in the building department of a municipality or county. See 8.3.4.7.~~

3.2.11 ~~*business environmental risk*~~—*risk (BER), n*—a risk which can have a material environmental or environmentally-driven impact on the business associated with the current or planned use of a ~~parcel of commercial real estate~~, not necessarily ~~limited~~ *related* to those environmental issues required to be investigated in this practice. Consideration of ~~*business environmental risk*~~ *BER* issues may involve addressing one or more non-scope considerations, some of which are identified in Section 13.

3.2.12 ~~*commercial real estate*~~—*estate, n*—any real *property* except a *dwelling* or *property* with no more than four *dwelling* units exclusively for residential use (except that a *dwelling* or *property* with no more than four *dwelling* units exclusively for residential use is included in this term when it has a commercial function, as in the ~~building~~ *construction* of such *dwellings* for profit). This term includes but is not limited to undeveloped real *property* and real *property* used for industrial, retail, office, agricultural, other commercial, medical, or educational purposes; *property* used for residential purposes that has more than four residential *dwelling* units; and *property* with no more than four *dwelling* units for residential use when it has a commercial function, as in the building of such *dwellings* for profit.

3.2.13 ~~*commercial real estate transaction*~~—*transaction, n*—a transfer of title to or possession of real *property* or receipt of a security interest in real *property*, except that it does not include transfer of title to or possession of real *property* or the receipt of a security interest in real *property* with respect to an individual *dwelling* or building containing fewer than five *dwelling* units, nor does it include the purchase of a lot or lots to construct a *dwelling* for occupancy by a purchaser, but a *commercial real estate* transaction does include real *property* purchased or leased by persons or entities in the business of ~~building~~ *constructing* or developing *dwelling* units.

3.2.14 ~~*Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS)*~~—the list of sites compiled by EPA that EPA has investigated or is ~~currently investigating~~ for potential *hazardous substance* contamination for possible inclusion on the *National Priorities List*.

3.2.14 ~~*construction debris*~~—*debris, n*—concrete, brick, asphalt, and other such building materials discarded in the construction of a building or other improvement to *property*.

3.2.15 ~~*contaminated public wells*~~—*wells, n*—public wells used for drinking water that have been designated by a government entity as contaminated by *hazardous substances* (for example, chlorinated *solvents*;) or *petroleum products*, or as having water unsafe to drink without treatment.

3.2.16 ~~*contiguous property owner liability protection*~~—*[42 U.S.C. § 9607(q)], n*—(42 U.S.C. §9607(q))—a person may qualify for the *contiguous property owner liability protection* if, among other requirements, such person owns real *property* that is contiguous to, and that is or may be contaminated by *hazardous substances* from other real *property* that is not owned by that person. Furthermore, such person conducted *all appropriate inquiries* at the time of acquisition of the *subject property* and did not know or have reason to know that the *subject property* was or could be contaminated by a *release* or threatened *release* from the contiguous *property*. The *all appropriate inquiries* must not result in knowledge of contamination. If it does, then such person did “know” or “had reason to know” of contamination and would not be eligible for the *contiguous property owner liability protection*. See **Appendix X1** for the other necessary requirements that are beyond the scope of this practice.

3.2.17 ~~*controlled recognized environmental condition*~~—*condition, n*—~~a recognized environmental condition resulting from affecting the a past subject property 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); or authorities 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*; *limitations*; *institutional controls*, or *engineering controls* *other property use limitations*). (See **For Note 2.**) A condition

considered by the examples environmental professional to be a controlled recognized environmental condition shall be listed in the findings section of the Phase I Environmental Site Assessment report, controlled and as a recognized environmental condition conditions, in see Appendix X4 the conclusions section of the Phase I Environmental Site Assessment report. (See Note 3.)

Note 2—For example, if a leaking underground storage tank has been cleaned up to a commercial use standard, but does not meet unrestricted residential cleanup criteria, this would be considered a controlled recognized environmental condition. The “control” is represented by the restriction that the property use remain commercial.

3.2.17.1 Discussion—

Identification of a controlled recognized environmental condition is a multi-step process that shall be reflected in the report's Findings and Opinions section(s), as described in 12.5 and 12.6, including the environmental professional's rationale for concluding that a finding is a controlled recognized environmental condition:

(1) When determining whether a recognized environmental condition has been “addressed to the satisfaction of the applicable regulatory authority or authorities with hazardous substances or petroleum products allowed to remain in place,” the environmental professional shall review reasonably ascertainable documentation, such as no further action letters (or similar certifications or approvals) issued by the applicable regulatory authority or authorities, or, in the case of self-directed actions, documentation and relevant data that satisfy risk-based criteria established by the applicable regulatory authority or authorities.

(2) In determining whether a recognized environmental condition is “subject to implementation of required controls (for example, activity and use limitations or other property use limitations),” the environmental professional shall identify the documentation providing the control(s) that addresses the recognized environmental condition in the report's Findings and Opinions section(s).

(3) When the environmental professional determines that a recognized environmental condition is “subject to implementation of required controls,” this determination does not imply that the environmental professional has evaluated or confirmed the adequacy, implementation, or continued effectiveness of the control(s).

(4) A past release that previously qualified as a controlled recognized environmental condition may no longer constitute a controlled recognized environmental condition at the time of the Phase I Environmental Site Assessment if new conditions or information have been identified such as, among other things, a change in regulatory criteria, a change of use at the subject property, or a subsequently identified migration pathway that was not previously known or evaluated.

Note 3—A condition identified as a controlled recognized environmental condition does not imply that the environmental professional has evaluated or confirmed the adequacy, implementation, or continued effectiveness of the required control that has been, or is intended to be, implemented.

3.2.19 CORRACTS list—a list maintained by EPA of hazardous waste treatment, storage, or disposal facilities and other RCRA-regulated facilities (due to past interim status or storage of hazardous waste beyond 90 days) that have been notified by the U.S. Environmental Protection Agency to undertake corrective action under RCRA. The CORRACTS list is a subset of the EPA database that manages RCRA data.

3.2.18 data failure—failure, n—a failure to achieve the historical research objectives objective in 8.3.1 through 8.3.2.2 even after reviewing the standard historical sources resources in 8.3.4.1 through 8.3.4.8 that are reasonably ascertainable and likely to be useful. Data failure is one type of data gap. See 8.3.2.38.3.6.

3.2.19 data gap—gap, n—a lack of or inability to obtain information required by this practice despite good faith efforts by the environmental professional to gather such information. Data gaps may result from incompleteness in any of the activities required by this practice, including, but not limited to, site reconnaissance (for example, an inability to conduct the site visit), and interviews (for example, an inability to interview the key site manager, regulatory officials, etc.). See 12.712.6.

3.2.20 de minimis condition—condition, n—a condition related to a release 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—A condition determined to be a de minimis condition condition are is not a recognized environmental condition condition nor a controlled recognized environmental condition condition.

3.2.21 demolition debris—debris, n—concrete, brick, asphalt, and other such building materials discarded in the demolition of a building or other improvement to a property.

3.2.22 drum—drum, n—a container (typically, but not necessarily, holding 55 gal (208 L) of liquid) that may be used to store hazardous substances or petroleum products.

3.2.23 *dry wells*—*wells, n*—underground areas where soil has been removed and replaced with pea gravel, coarse sand, or large rocks. *Dry wells* are used for drainage, to control storm runoff, for the collection of spilled liquids (intentional and non-intentional), and *wastewater* disposal (often illegal).

3.2.24 *due diligence*—*diligence, n*—the process of inquiring into the environmental characteristics of a ~~parcel of commercial real estate~~ or other conditions, usually in connection with a *commercial real estate* transaction. The degree and kind of *due diligence* vary for different *properties*, and differing purposes. See [Appendix X1](#).

3.2.25 *dwelling*—*dwelling, n*—structure or portion thereof used for residential habitation.

3.2.26 *engineering controls, (EC)*—*n*—physical modifications to a site or facility (for example, capping, slurry walls, or point of use water treatment) to reduce or eliminate the potential for exposure to *hazardous substances* or *petroleum products* in the soil or groundwater on ~~the~~ *property*. *Engineering controls* are a type of *activity and use limitation (AUL)*.

3.2.27 *environment*—*environment, n*—*environment* shall have the same meaning as the definition of *environment* in CERCLA 42 U.S.C. § 9601(8)—§ 9601(8)). For additional background information, see Legal Appendix ([Appendix X1](#)) to section [X1.1.1](#) ~~X1.1.1~~ “Releases and/or Threatened Release.” Releases.”

3.2.28 *environmental compliance audit*—*audit, n*—the investigative process to determine if the operations of an existing facility are in compliance with applicable environmental laws and regulations. This term should not be used to describe this practice, although an *environmental compliance audit* may include an *environmental site assessment* or, if prior audits are available, may be part of an *environmental site assessment*.

3.2.29 *environmental lien*—*lien, n*—a charge, security, or encumbrance upon title to a *property* to secure the payment of a cost, damage, debt, obligation, or duty arising out of response actions, cleanup, or other remediation of *hazardous substances* or *petroleum products* upon a *property*, including (but not limited to) liens imposed pursuant to CERCLA 42 U.S.C. §§ 9607(1) & 9607(r) and similar state or local laws.

3.2.30 *environmental professional*—*professional, n*—a person meeting the education, training, and experience requirements as set forth in 40 CFR § 312.10(b)—C.F.R. § 312.10(b). For the convenience of the reader, this section is reprinted in [Appendix X2](#). The person may be an independent contractor or an employee of the *user*.

3.2.31 *environmental site assessment (ESA)*—*(ESA), n*—the process by which a person or entity seeks to determine if a *particular parcel of real subject property (including improvements)* is subject to *recognized environmental conditions*. At the option of the *user*, an *environmental site assessment* may include more inquiry than that constituting *all appropriate inquiries* or, if the *user* is not concerned about qualifying for the *LLPs*, less inquiry than that constituting *all appropriate inquiries*. An *environmental site assessment* is both different from and often less rigorous than an *environmental compliance audit*.

3.2.32 *ERNS list*—*list, n*—EPA’s emergency response notification system list of reported CERCLA *hazardous substance releases* or spills in quantities greater than the reportable quantity, as maintained at the National Response Center. Notification requirements for such *releases* or spills are codified in 40 CFR C.F.R. Parts 302 and 355.

3.2.35 *Federal Register, (FR)*—publication of the United States government published daily (except for federal holidays and weekends) containing all proposed and final regulations and some other activities of the federal government. When regulations become final, they are included in the Code of Federal Regulations (CFR), as well as published in the *Federal Register*.

3.2.33 *fill dirt*—*dirt, n*—dirt, soil, sand, or other earth, that is obtained off-site, that is used to fill holes or depressions, create mounds, or otherwise artificially change the grade or elevation of real *property*. It does not include material that is used in limited quantities for normal landscaping activities.

3.2.34 *fire insurance maps*—*maps, n*—maps originally produced for private fire insurance map companies purposes that indicate uses of properties at specified dates and that encompass the *property*. *properties* These maps are often available at local libraries, historical societies, private resellers, or from the map companies who produced them at specified dates.

3.2.35 *good faith*—~~*faith, n*~~—the absence of any intention to seek an unfair advantage or to defraud another party; an honest and sincere intention to fulfill one’s obligations in the conduct or transaction concerned.

3.2.36 *hazardous substance*—~~*substance, n*~~—a substance defined as a *hazardous substance* pursuant to CERCLA 42 U.S.C. § 9601(14), U.S.C. § 9601(14), as interpreted by EPA regulations and the courts: “(A) any substance designated pursuant to section 1321(b)(2)(A) of Title 33, (B) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of this title, (C) any *hazardous waste* having the characteristics identified under or listed pursuant to section 3001 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, (42 U.S.C. § 6921)§ 6921) (but not including any waste the regulation of which under RCRA (42 U.S.C. §§ 6901–6992k)U.S.C. § 6901 *et seq.*) has been suspended by Act of Congress), (D) any toxic pollutant listed under section 1317(a) of Title 33, (E) any hazardous air pollutant listed under section 112 of the Clean Air Act (42 U.S.C. § 7412),§ 7412), and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator (of EPA) has taken action pursuant to section 2606 of Title 15. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a *hazardous substance* under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).” (See [Appendix X1](#).)

3.2.37 *hazardous waste*—~~*waste, n*~~—any *hazardous waste* having the characteristics identified under or listed pursuant to section 3001 of RCRA, as amended, (42 U.S.C. § 6921)§ 6921) (but not including any waste the regulation of which under RCRA (42 U.S.C. §§ 6901–6992k)§§ 6901–6992k) has been suspended by Act of Congress). RCRA is sometimes also identified as the Solid Waste Disposal Act. RCRA defines a *hazardous waste*, at 42 U.S.C. § 6903,§ 6903, as: “a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may—(A) may: (A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness;illness, or (B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.”

3.2.38 *hazardous waste/contaminated sites*—~~*sites, n*~~—sites on which a *release* has occurred, or is suspected to have occurred, of any *hazardous substance, hazardous waste, or petroleum products*, and that *release* or suspected *release* has been reported to a government entity.

3.2.39 *historical recognized environmental condition*—~~*condition, n*~~—a ~~past~~previous *release* of ~~any~~hazardous substances or *petroleum products* that has occurred in connection with affecting the *subject property* and that has been addressed to the satisfaction of the applicable regulatory authority or authorities and meeting unrestricted use criteria established by a regulatory authority, the applicable regulatory authority or authorities without subjecting the *subject property* to any required controls (for example, *property use restrictions, activity and use limitations, limitations, institutional controls, or other engineering control-property use limitations*). Before calling the past *A release* a *historical recognized environmental condition, condition* the environmental professional must determine whether the past release is not a *recognized environmental condition*. at the time the For examples of *Phase I Environmental Site Assessment*historical is conducted (for example, if there has been a change in the regulatory criteria). If the EP considers the past release to be a *recognized environmental condition*conditions, atsee [Appendix X4](#)the time the Phase I ESA is conducted, the condition shall be included in the conclusions section of the report as a *recognized environmental condition*.

3.2.39.1 *Discussion*—

Identification of a *historical recognized environmental condition* is a multi-step process that shall be reflected in the *report’s Findings and Opinions* section(s), as described in 12.5 and 12.6, including the *environmental professional’s* rationale for concluding that a finding is a *historical recognized environmental condition*:

(1) When determining whether a *recognized environmental condition* has been “addressed to the satisfaction of the applicable regulatory authority or authorities and meeting unrestricted use criteria established by the regulatory authority or authorities,” the *environmental professional* shall review *reasonably ascertainable* documentation and relevant data that demonstrate that *unrestricted use criteria* established by the applicable regulatory authority or authorities was met.

(2) A *past release* that qualified as a *historical recognized environmental condition* may no longer qualify as a *historical recognized environmental condition* if new conditions or information have been identified such as, among other things, a change in regulatory criteria or a subsequently identified *migration* pathway that was not previously known or evaluated. As noted, the *report’s Findings and Opinions* section(s) shall include the *environmental professional’s* rationale for concluding that a condition at the *subject property* is or is not currently a *recognized environmental condition* or a *historical recognized environmental condition*.

3.2.40 *IC/EC registries*—~~*registries, n*~~—databases of *institutional controls* or *engineering controls* that may be maintained by a

federal, state, or local environmental agency for purposes of tracking sites that may contain residual contamination and *AULs*. The names for these may vary from program to program and state to state, and include terms such as ~~as~~, but not limited to the following: Declaration of Environmental Use Restriction database (Arizona), list of “~~deed restrictions~~” (California), ~~environmental real covenants list~~ (Colorado), ~~brownfields site list~~ (Indiana, Missouri) and Land Use Restriction Sites (California Department of Toxic Substances Control), Sites with Deed Restrictions (California State Water Resources Control Board), Environmental Covenant List (Washington), Sites With Environmental Covenants and Use Restrictions (Colorado), Institutional Control Registry (Indiana), Environmental Site Tracking and Research Tool (Missouri), and the Pennsylvania Activity and Use Limitation (PA ~~AUL~~)*AUL* Registry.

3.2.41 ~~innocent landowner defense~~—[42 U.S.C. §§ 9601(35) & 9607(b)(3)], ~~n—(42 U.S.C. §§9601(35) & 9607(b)(3))~~—~~a~~ a person may qualify as one of three types of innocent landowners: ~~(i)~~(1) a person who “did not know and had no reason to know” that contamination existed on the *subject property* at the time the purchaser acquired the *subject property*; ~~(ii)~~(2) a government entity which acquired the *subject property* by escheat, or through any other involuntary transfer or acquisition, or through the exercise of eminent domain authority by purchase or condemnation; ~~and/or~~ ~~(iii)~~(3) a person who “acquired the facility by inheritance or bequest.” To qualify for the *innocent landowner* defense, such person must have made *all appropriate inquiries* on or before the date of purchase. Furthermore, the *all appropriate inquiries* must not have resulted in knowledge of the contamination. If it does, then such person did “know” or “had reason to know” of contamination and would not be eligible for the *innocent landowner defense*. See Appendix X1 for the other necessary requirements that are beyond the scope of this practice.

3.2.42 ~~institutional controls (IC)~~—(IC), ~~n—~~a legal or administrative ~~restriction mechanism~~ (for example, “deed restrictions,” restrictive covenants, easements, or zoning) on the use of, or access to, a site or facility to (1) reduce or eliminate potential exposure to *hazardous substances* or *petroleum products* in the soil or groundwater on the *property*, or (2) to prevent activities that could interfere with the effectiveness of a response action, in order to ensure maintenance of a condition of no significant risk to public health or the environment. An *institutional control* is a type of ~~Activity~~*activity* and ~~Use Limitation~~*use limitation* (*AUL*).

3.2.43 ~~interviews~~—*interviews*, ~~n—~~those portions of this practice that are ~~contained in Section~~ conducted ~~10 and 11~~ thereof and address questions to be asked of ~~past and present~~to gather information from an individual or owners; ~~individuals~~ operators; and ~~in~~ occupants ~~person~~, of the by telephone, ~~property~~ in and questions to be asked of local government officials; ~~writing~~, or via other electronic media to meet the objectives of this practice.

3.2.44 ~~key site manager~~—*manager*, ~~n—~~the person identified by the *owner* or *operator* of a *subject property* as having good knowledge of the uses and physical characteristics of the *subject property*. See 10.5.1.

3.2.45 ~~land title records~~, ~~n—~~records that affect the title of real estate, which may include, among other things, deeds, mortgages, leases, land contracts, court orders, easements, liens, and *AULs* recorded within the recording systems or land registration systems created by state statute in every state and ordinarily administered in the local jurisdiction (usually the county) in which the *subject property* is located, and available by performing a title search. Such records are publicly accessible, though the process of performing a title search to find *land title records* often requires specialized expertise or knowledge of the local system (see 5.4 – *AULs* and *Environmental Liens in Land Title Records*). Information about the title to the *subject property* that is filed or stored in any place other than where *land title records* are, by law or custom, recorded for the local jurisdiction in which the *subject property* is located, are not considered *land title records*.

3.2.46 ~~landfill~~—*landfill*, ~~n—~~a place, location, tract of land, area, or premises used for the disposal of solid wastes as defined by state solid waste regulations. The term is synonymous with the term *solid waste disposal site* and is also known as a garbage dump, trash dump, or similar term.

3.2.47 ~~Landowner Liability Protections (LLPs)~~—*landowner liability protections (LLPs)*, ~~n—~~~~landowner liability protections~~ a defense to under CERCLA; these protections include the CERCLA available to *bona fide prospective purchaser liability protection*; *purchasers*; *contiguous property owner liability protection*; *owners*, and *innocent landowner defense* ~~landowners~~. from CERCLA liability. See 42 U.S.C. §§9601(35)(A); §§ 9601(35)(A), 9601(40), 9607(b), 9607(q), and 9607(r).

3.2.48 ~~local government agencies~~—*agencies*, ~~n—~~those agencies of municipal or county government having jurisdiction over the *subject property*. Municipal and county government agencies include but are not limited to cities, parishes, townships, and similar entities.

3.2.49 ~~local street directories~~—*directories*, ~~n—~~directories published by private (or sometimes government) sources that show

~~ownership, occupancy, and/or use of sites by reference to street addresses. Often or government entities that list the *local street directories* *occupant(s)* are available at libraries, or historical of a specific address at the time the *societies, occupant* and/or local municipal offices. See data were collected, typically within 8.3.4.6 of this practice: a year of the publication date of the directory.~~

~~3.2.52 *LUST sites*—state lists of leaking *underground storage tank* sites. RCRA gives EPA and states, under cooperative agreements with EPA, authority to clean up *releases* from UST systems or require *owners* and *operators* to do so. (42 U.S.C. §6991b).~~

~~3.2.50 *major occupants*—*occupants, n*—those tenants, subtenants, or other persons or entities each of which uses at least 40 % of the leasable area of the *subject property* or any anchor tenant when the *subject property* is a shopping center.~~

~~3.2.51 *material safety data sheet (MSDS)*—(*MSDS, n*)—written or printed material concerning a *see hazardous substances safety data which sheet* is prepared by chemical manufacturers, importers, and employers for hazardous chemicals pursuant to OSHA’s Hazard Communication Standard, 29 C.F.R. §1910.1200.~~

~~3.2.52 *material threat*—*threat, n*—a physically observable or *obvious* threat which is reasonably likely to lead to a *release* and that, in the opinion of the *environmental professional*, is ~~threatening and might would likely~~ result in impact to public health or the environment. An example might include an aboveground storage tank system that contains a *hazardous substance* and which shows evidence of damage. The damage would represent a *material threat* if it is deemed serious enough that it may cause or contribute to tank integrity failure with a *release* of contents to the *environment*.~~

~~3.2.53 *migrate/migration*—*migrate/migration, v/n*—for the purposes of this practice, “*migrate*” “*migrate*” and “*migration*” “*migration*” refers to the movement of *hazardous substances* or *petroleum products* in any form, including, for example, solid and liquid at the surface or subsurface, and vapor in the subsurface. See *Note 4*.~~

~~NOTE 4—Vapor migration in the subsurface is described in Guide E2600; however, nothing in this practice should be construed to require application of the Guide E2600 standard to achieve compliance with all appropriate inquiries.~~

~~3.2.53.1 *Discussion*—~~

~~Vapor *migration* in the subsurface is described in Guide E2600; however, nothing in this practice should be construed to require application of the Guide E2600 standard to achieve compliance with *all appropriate inquiries*.~~

~~3.2.57 *National Contingency Plan (NCP)*—the National Oil and Hazardous Substances Pollution Contingency Plan, found at 40 C.F.R. Part 300, that is the EPA’s blueprint on how *hazardous substances* are to be cleaned up pursuant to CERCLA.~~

~~3.2.54 *National Priorities List (NPL)*—(*NPL, n*)—list compiled by EPA pursuant to CERCLA 42 U.S.C. §9605(a)(8)(B) § 9605(a)(8)(B) of *property* *sites* with the highest priority for cleanup pursuant to EPA’s Hazard Ranking System. See 40 C.F.R. Part 300.~~

~~3.2.55 *obvious*—*obvious, adj*—that which is plain or evident; a condition or fact that could not be ignored or overlooked by a reasonable observer while visually or physically observing the *observer* *property*.~~

~~3.2.56 *occupants*—*occupants, n*—those tenants, subtenants, or other persons or entities using *the* *property* or a portion of *the* *property*.~~

~~3.2.57 *operator*—*operator, n*—the person responsible for the overall operation of a facility.~~

~~3.2.58 *other historical sources*—*resources, n*—any source or sources *resource* other than those designated in 8.3.4.1 through 8.3.4.8 that are credible to a reasonable person and that identify past uses of the *property* *properties*. The term includes, but is not limited to: miscellaneous maps, newspaper archives, internet sites, community organizations, local libraries, historical societies, current owners or occupants of neighboring properties, and records in the files and/or personal knowledge of the property owner and/or occupants. See 8.3.4.9.~~

~~3.2.59 *owner*—*owner, n*—generally the fee *owner* of record of *the* *property*.~~

3.2.60 *petroleum exclusion*—*exclusion, n*—the exclusion from CERCLA liability provided in 42 U.S.C. §9601(14),§ 9601(14), as interpreted by the courts and EPA: “The term (*hazardous substance*) does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a *hazardous substance* under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).”

3.2.61 *petroleum products*—*products, n*—those substances included within the meaning of the *petroleum exclusion* to CERCLA, 42 U.S.C. §9601(14),§ 9601(14), as interpreted by the courts and EPA, that is: petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a *hazardous substance* under Subparagraphs (A) through (F) of 42 U.S.C. §-9601(14),-§ 9601(14), natural gas, natural gas liquids, liquefied natural gas, and synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). (The word fraction refers to certain distillates of crude oil, including gasoline, kerosine, diesel oil, jet fuels, and fuel oil, pursuant to Standard Definitions of Petroleum Statistics.⁸)

3.2.62 *Phase I Environmental Site Assessment*—*Assessment, n*—the process described in this practice.

3.2.63 *physical setting sources*—*sources, n*—~~sources~~resources that provide information about the geologic, hydrogeologic, hydrologic, or topographic characteristics of ~~a~~the area that includes the *subject property*. See 8-2-48.2.1.

3.2.64 *pits, ponds, or lagoons*—*lagoons, n*—~~man-made~~manmade or natural depressions in a ground surface that are likely to hold liquids or sludge containing *hazardous substances* or *petroleum products*. The likelihood of such liquids or sludge being present is determined by evidence of factors associated with the pit, pond, or lagoon, including, but not limited to, discolored water, distressed vegetation, or the presence of an *obvious wastewater discharge*.

3.2.65 *practically reviewable*—*reviewable, adj*—information that is *practically reviewable* 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. The form of the information shall be such that the *user* can review the records for a limited geographic area. Records that cannot be feasibly retrieved by reference to the location of the *subject property* or a geographic area in which the *subject property* is located are not generally *practically reviewable*. Most databases of public records are *practically reviewable* if they can be obtained from the source agency by the county, city, zip code, or other geographic area of the facilities listed in the record system. Records that are sorted, filed, organized, or maintained by the source agency only chronologically are not generally *practically reviewable*. Listings in *publicly available* records which do not have adequate address information to be located geographically are not generally considered *practically reviewable*. For large databases with numerous records (such as RCRA hazardous waste generators and registered *underground storage tanks*), the records are not *practically reviewable* unless they can be obtained from the source agency in the smaller geographic area of zip codes. Even when information is provided by zip code for some large databases, it is common for an unmanageable number of sites to be identified within a given zip code. In these cases, it is not necessary to review the impact of all of the sites that are likely to be listed in any given zip code because that information would not be *practically reviewable*. In other words, when so much ~~data~~information is generated that it cannot be feasibly reviewed ~~for~~regarding its impact on the *subject property*, it is not *practically reviewable*.

3.2.66 *property*—*property, n*—the real *property*, that is the subject of the including environmental site assessment described in this practice. Real ~~property~~property includes buildings and other fixtures and improvements located on ~~the property~~and affixed to the land.

3.2.67 *property use limitation, n*—limitation or restriction on current or future use of a *property* in connection with a response to a release, in accordance with the applicable regulatory authority or authorities that allows *hazardous substances* or *petroleum products* to remain in place at concentrations exceeding unrestricted use criteria.

3.2.68 *property tax files*—*files, n*—~~the files kept for *property* tax purposes by the local jurisdiction where the which *property* is located and may include records of past ownership, appraisals, maps, sketches, photos,~~photographs, or other information that is information. reasonably ascertainable and pertaining to the property. See 8-3-4.3.

3.2.69 *publicly available*—*available, adj*—information that is *publicly available* means that the source of the information allows access to the information by anyone upon request.

⁸ *Standard Definitions of Petroleum Statistics*, American Petroleum Institute, Fifth Edition, 1995.

~~3.2.70 RCRA generators—generators, n—those persons or entities that generate hazardous wastes, as defined and regulated by RCRA.~~

~~3.2.74 RCRA generators list—list kept by EPA of those persons or entities that generate hazardous wastes as defined and regulated by RCRA.~~

~~3.2.75 RCRA TSD facilities—those facilities on which treatment, storage, and/or disposal of hazardous wastes takes place, as defined and regulated by RCRA.~~

~~3.2.71 RCRA TSD facilities, list—n—list kept by EPA of those facilities on which treatment, storage, and/or disposal of hazardous wastes takes place, as defined and regulated by RCRA.~~

~~3.2.72 reasonably ascertainable—ascertainable, adj—information that is (1) publicly available, (2) obtainable from its source within reasonable time and cost constraints, and (3) practically reviewable.~~

~~3.2.73 recognized environmental conditions—conditions, n—(1) the presence of hazardous substances or petroleum products in, on, or at the subject property due to a release to the environment; (2) the likely presence of any hazardous substances or petroleum products in, on, or at the subject property; (3) due to release to the environment; (4) under conditions indicative of a or likely release to the environment; or (5) the presence of hazardous substances or petroleum products in, on, or at the subject property under conditions that pose a material threat of a future release to the environment. De minimis conditions are not recognized environmental conditions.~~

~~3.2.73.1 Discussion—~~

~~For the purposes of this definition, “likely” is that which is neither certain nor proved, but can be expected or believed by a reasonable observer based on the logic and/or experience of the environmental professional, and/or available evidence, as stated in the report to support the opinions given therein.~~

~~3.2.73.2 Discussion—~~

~~A de minimis condition is not a recognized environmental condition. See Appendix X4: Additional Examination of the Recognized Environmental Condition Definition and Logic.~~

~~3.2.79 recorded land title records—records of historical fee ownership, which may include leases, land contracts, and AULs on or of the property recorded in the place where land title records are, by law or custom, recorded for the local jurisdiction in which the property is located. (Often such records are kept by a municipal or county recorder or clerk.) Such records may be obtained from title companies or directly from the local government agency. Information about the title to the property that is recorded in a U.S. district court or any place other than where land title records are, by law or custom, recorded for the local jurisdiction in which the property is located, are not considered part of recorded land title records. See 8.3.4.4.~~

~~3.2.80 records of emergency release notifications EPCRA—(42 U.S.C. §11004)—requires operators of facilities to notify their local emergency planning committee (as defined in EPCRA) and state emergency response commission (as defined in EPCRA) of any release beyond the facility’s boundary of any reportable quantity of any extremely hazardous substance. Often the local fire department is the local emergency planning committee. Records of such notifications are “Records of Emergency Release Notifications” (42 U.S.C. 11004).~~

~~3.2.74 records review—review, n—that part that is contained in Section 8 of this practice that addresses which records shall or may be reviewed.~~

~~3.2.75 release—release, n/v—a release of any hazardous substance or petroleum product shall have the same meaning as the definition of “release” in CERCLA 42 U.S.C. § 9601(22). There are a number of statutory exclusions from the definition of release that may impact the environmental professional’s opinions and conclusions, such as the normal application of fertilizer. For additional background information, see Legal Appendix (Appendix X1) to X1.1.1 “Releases and Threatened Release.”~~

~~3.2.76 report—report, n—the written report prepared by the environmental professional and constituting part of a “Phase I Environmental Site Assessment,” as required by this practice.~~

3.2.77 *safety data sheets, n*—written or printed material that is prepared by chemical manufacturers and importers for distributors' and employers' use that provides comprehensive information regarding a hazardous chemical pursuant to OSHA's Hazard Communication Standard (HCS), 29 C.F.R. § 1910.1200.

3.2.78 *significant data gap, n*—a *data gap* that affects the ability of the *environmental professional* to identify a *recognized environmental condition*. See 12.6.2.

3.2.79 *site reconnaissance=reconnaissance, n*—that part that is contained in Section 9 of this practice and addresses what should be done in connection with the *site visit*. The *site reconnaissance* includes, but is not limited to, the *site visit* done in connection with such a *Phase I Environmental Site Assessment*.

3.2.80 *site visit=visit, n*—the visit to the *subject property* during which observations are made constituting the *site reconnaissance* section of this practice.

3.2.81 *solid waste disposal site=site, n*—a place, location, tract of land, area, or premises used for the disposal of solid wastes as defined by state solid waste regulations. The term is synonymous with the term *landfill* and is also known as a garbage dump, trash dump, or similar term.

3.2.82 *solvent=solvent, n*—a chemical compound that is capable of dissolving another substance and may itself be a *hazardous substance*, used in a number of manufacturing/industrial processes including but not limited to the manufacture of paints and coatings for industrial and household purposes, equipment clean-up, and surface degreasing in metal fabricating industries.

3.2.83 *standard environmental record sources=sources, n*—those records specified in 8.2.48.2.2.

3.2.84 *standard historical sources=resources, n*—those ~~sources~~resources of information about the history of uses of *property-properties* specified in 8.3.4.

3.2.85 *standard physical setting source=resources, n*—~~a current-recent USGS 7.5 Minute Topographic Map (if any) showing (or equivalent) showing contour lines and the area on which the subject property is located.~~located, and site-specific physical setting information obtained pursuant to agency file reviews. See 8.2.48.2.1./-21

<https://standards.iteh.ai/catalog/standards/sist/bcb41d8-b33e-49ed-a90a-706a853b2eb1/astm-e1527-21>

3.2.86 *standard practice=practice, n*—the activities set forth in this practice.

3.2.87 *standard sources=sources, n*—sources of environmental, physical setting, or historical records specified in Section 8 of this practice.

3.2.88 ~~state-registered~~*subject property, USTs=n*—state lists of ~~the underground storage tanks~~*property* required to be registered under Subtitle that is the subject of the *I, Section 9002 environmental site assessment* of RCRA. ~~described in this practice.~~

3.2.89 *sump=sump, n*—a pit, cistern, cesspool, or similar receptacle where liquids drain, collect, or are stored.

3.2.90 *topographic map, n*—graphic representation delineating natural and man-made features of an area or region in a way that shows their relative positions and elevations.

3.2.91 *TSD facility=facility, n*—treatment, storage, or disposal facility (see *facility*. See 3.2.71 RCRA TSD facilities.).

3.2.92 *underground injection=injection, n*—the emplacement or discharge of fluids into the subsurface by means of a well, improved sinkhole, sewage drain hole, subsurface fluid distribution system or other system, or groundwater point source.

3.2.93 *underground storage tank (UST)=(UST), n*—any tank, including underground piping connected to the tank, that is or has been used to contain *hazardous substances* or *petroleum products* and the volume of which is 10 % or more beneath the surface of the ground.

3.2.94 ~~user—user, n—the party seeking to use Practice E1527 to complete an environmental site assessment of the subject property. A user may include, without limitation, a potential purchaser of property, a potential tenant of property, an owner of property, a lender, or a property manager. The user has specific obligations for completing a successful application of this practice outlined in Section 6.~~

3.2.94.1 Discussion—

A user may include, without limitation, a potential purchaser of subject property, a potential tenant of subject property, an owner of the subject property, a lender, or a property manager. A user seeking to qualify for an LLP to CERCLA liability, or a user that is an EPA Brownfield Assessment and Characterization grantee, has specific responsibilities for completing a successful application of this practice as outlined in Section 6.

3.2.95 ~~USGS 7.5 Minute Topographic Map—Map, n—the map (if any) available from or produced by the United States Geological Survey, entitled “USGS Topographic Map, including the current US Topo 7.5-Minute Series or the historical 7.5-Minute Topographic Series, which is available from USGS 7.5 Minute Topographic Map, the United States Geologic Survey and showing the subject property.~~

3.2.96 ~~visually and/or physically observed—observed, v—during a site visit pursuant to this practice, this term means observations made by vision while walking through a visual, auditory, property and the structures located on it and observations made by the sense of smell, particularly observations of noxious or foul odors. The term “walking through” is not meant to imply that disabled persons who cannot physically walk may not conduct a or olfactory site visit; they may do so by the means at their disposal for moving through means while performing the property site and reconnaissance. the structures located on it.~~

3.2.97 ~~wastewater—wastewater, n—water that (1) is or has been used in an industrial or manufacturing process, (2) conveys or has conveyed sewage, or (3) is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. Wastewater does not include water originating on or passing through or adjacent to a site, such as stormwater flows, that has not been used in industrial or manufacturing processes, has not been combined with sewage, or is not directly related to manufacturing, processing, or raw materials storage areas at an industrial plant.~~

3.2.98 ~~zoning/land use records—records, n—those records of the local government in which of areas encompassing the subject property is located indicating the uses permitted by the local government in particular zones within its jurisdiction. The records may consist of maps and/or written records. They are often located in the planning department of a municipality or county. See or written records. 8.3.4.8.~~

3.3 Abbreviations and Acronyms: <http://www.astm.org/standards/sist/6cb41d8-b33e-49ed-a90a-706a853b2eb1/astm-e1527-21>

3.3.1 ~~AULs—Activity and Use Limitations: Limitations~~

3.3.2 ~~CERCLA—Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as amended, 42 U.S.C. §§9601-9601 et seq.):~~

3.3.3 ~~CERCLIS—Comprehensive Environmental Response, Compensation and Liability Information System (maintained by EPA):~~

3.3.3 ~~CFR—C.F.R.—Code of Federal Regulations: Regulations~~

3.3.4 ~~CORRACTS—CREC—facilities subject to Corrective Controlled Recognized Environmental Condition Action under RCRA:~~

3.3.5 EC—Engineering Control

3.3.6 EPA—United States Environmental Protection Agency: Agency

3.3.7 ~~EPCRA—Emergency Planning and Community Right to Know Act ((also (also known as SARA Title III), 42 U.S.C. §§11001-11050 §§ 11001-11050 et seq.):~~

3.3.8 ERNS—emergency response notification system: system

3.3.9 ~~ESA—Environmental Site Assessment~~environmental site assessment (different than an *environmental compliance audit*, ~~3.2.303.2.28~~.)

3.3.10 ~~FOIA—FR—U.S. Freedom of Information Act (5 U.S.C. §552 as amended by Public Law No. 104-231, 110 Stat.)~~Federal Register

3.3.11 ~~FR—HREC—Federal Register~~Historical Recognized Environmental Condition

3.3.12 ~~ICs—IC—Institutional Controls~~Control

3.3.13 ~~LLP—Landowner Liability Protections under the Brownfields Amendments~~

3.3.14 ~~LUST—Leaking Underground Storage Tank~~underground storage tank

3.3.15 ~~MSDS—Material Safety Data Sheet.~~

3.3.15 ~~NCP—National Contingency Plan~~Plan

3.3.16 ~~NFRAP—former CERCLIS sites~~Sites where no further remedial action is planned under ~~CERCLA~~CERCLA

3.3.17 ~~NPDES—National Pollutant Discharge Elimination System~~System

3.3.18 ~~NPL—National Priorities List~~List

3.3.19 ~~PCBs—polychlorinated biphenyls~~Polychlorinated biphenyls

3.3.21 ~~PRP—Potentially Responsible Party (pursuant to CERCLA 42 U.S.C. §9607(a)).~~

3.3.20 ~~RCRA—Resource Conservation and Recovery Act (as amended, 42 U.S.C. §§6901–6904)~~U.S.C. § 6901 et seq.)

3.3.21 ~~REC—Recognized Environmental Condition~~

3.3.22 ~~SARA—Superfund Amendments and Reauthorization Act of 1986 (amendment to CERCLA).~~

3.3.23 ~~TSDf—hazardous waste treatment, storage, or disposal facility~~facility

3.3.24 ~~USC—U.S.C.—United States Code~~Code

3.3.25 ~~USGS—United States Geological Survey~~Survey

3.3.26 ~~UST—Underground Storage Tank~~Tank

4. Significance and Use

4.1 *Uses*—This practice is intended for use on a voluntary basis by parties who wish to assess the environmental condition of *commercial real estate* taking into account commonly known and *reasonably ascertainable* information. While use of this practice is intended to constitute *all appropriate inquiries* for purposes of the *LLPs*, it is not intended that its use be limited to that purpose. This practice is intended primarily as an approach to conducting an inquiry designed to identify *recognized environmental conditions* in connection with a *subject property*. No implication is intended that a person ~~must~~shall use this practice in order to be deemed to have conducted inquiry in a commercially prudent or reasonable manner in any particular transaction. Nevertheless, this practice is intended to reflect a ~~commercially prudent and reasonable inquiry.~~ (See ~~Section~~good commercial and customary practice (see 1.6)).