



Designation: ~~E2247–16~~ E2247 – 23

Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property¹

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1. Scope

1.1 *Purpose*—The purpose of this practice is to provide an alternative method to ASTM E1527 for good commercial and customary ~~practice~~practices in the United States of America for conducting a *Phase I Environmental Site Assessment*² of *forestland* or *rural property* with respect to the range of contaminants within the scope of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 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~~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~~the *property* consistent with good commercial or customary ~~practice~~practices and customary standards and practices as defined at 42 U.S.C. §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. 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) must include controlled substances as defined in the Controlled Substances Act (21 U.S.C. §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 [1.4](#) and [Section 13](#)).

1.1.1 *Standard Practice Selection*—The methodology included in this practice is an effective and practical process for achieving the objectives of a *Phase I Environmental Site Assessment* of *forestland* or *rural property* when some of the methodologies of ASTM E1527 are deemed to be impractical or unnecessary due to the size or nature of the *property*. This practice is intended to provide a more practical approach to assess rural and *forestland* properties that are generally uniform in use. A primary consideration in applying this practice instead of E1527 is the nature and extent of the *property* being assessed, as the typical environmental concerns, sources for *interviews* and records, and the methodology used to perform the *site reconnaissance* may differ significantly. The *property* to be assessed using this standard practice need not be contiguous and may contain isolated areas of non-*forestland* and non-*rural property*. *Site reconnaissance* of isolated areas of the *property* that include activities outside the definition of *forestland* or *rural property* should be addressed using methodologies such as those provided in ~~E1527-13~~E1527-13, which may be conducted and reported in conjunction with this practice, as discussed in ~~section 4.5.3~~.

1.1.2 *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 condition* means (1) the presence or ~~likely presence of any of~~likely presence of *hazardous substances* or *petroleum products* in, on, or at ~~the~~the *subject property*; (1) ~~due to any release to the environment;~~ (2) ~~under conditions indicative~~the likely presence of *hazardous substances* or *petroleum products* in, on, or at the

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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*.

subject property due to a *release* or *likely release* to the *environment*; or (3) 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*. ~~A *De minimis conditions* *de minimis condition* *are* *is* not a *recognized environmental conditions* *condition*.~~

1.1.3 *Related Standard Practices*—This practice is closely related to Standard Practice **E1527**. Standard Practice **E1527** is an *environmental site assessment* for *commercial real estate* (see **4.3**).

1.1.4 *Petroleum Products*—*Petroleum products* are included within the scope of this practice because they are of concern with respect to many parcels of *forestland* or *rural property* and current custom and usage is to include an inquiry into the presence of *petroleum products* when ~~doing~~ *conducting* an *environmental site assessment* of *forestland* or *rural property*. Inclusion of *petroleum products* within the scope of this practice is not based upon the applicability, if any, of CERCLA to *petroleum products*. (See **Appendix XI** for discussion of *petroleum exclusion to CERCLA liability*.)

1.1.5 *CERCLA Requirements Other Than Appropriate Inquiries*—This practice does not address whether requirements in addition 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 XI** including the continuing obligation not to impede the integrity and effectiveness of *activity and use limitations (AULs)*, or the duty to take reasonable steps to prevent *releases*, or the duty to comply with legally required *release reporting obligations*).

1.1.6 *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~~ *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 a~~ *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

1.1.7 *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 **8-1-88.1.9** 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~~ *practices* for *environmental site assessments* for *forestland* or *rural property*; *property*; (2) to facilitate high quality, standardized *environmental site assessments*; *assessments*; (3) to provide a practical and reasonable *standard practice* for *all appropriate inquiries*; *inquiries*; and (4) to clarify an industry standard for *all appropriate inquiries* in an effort to guide legal interpretation of the *LLPs*. <http://www.astm.org/catalog/standards/astm/e573c59a-7450-4aa1-bc61-ee91cd43ada37/astm-e2247-23>

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 (for example, threatened and endangered species and non-point source considerations) that may exist on a *forestland* or *rural property* that are beyond the scope of this practice, but may warrant discussion between the *environmental professional* and the *user* about a *forestland* or *rural property* 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 initiation of the *environmental site assessment* process.

1.4 *Organization of This Practice*—This practice has 13 Sections and 5 appendixes. Section **1** concerns the Scope. Section **2**

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 substance* 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**.

relates to Referenced Documents. Section 3, Terminology, contains definitions of terms not unique to this practice, descriptions of terms unique to this practice, and acronyms. Section 4 describes the Significance and Use of this practice. Section 5 provides discussion regarding activity and use limitations. Section 6 describes the *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 CFR 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 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 and health practices and determine the applicability of regulatory limitations prior to use.*

1.5 *This practice offers a set of instructions for performing one or more specific operations and should be supplemented by education, experience, and professional judgment. Not all aspects of this practice may be applicable in all circumstances. This ASTM standard practice does not necessarily represent 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 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.*

1.7 *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

NOTE 1—Referenced ASTM standards imply their current versions.

[D7297 Practice for Evaluating Residential Indoor Air Quality Concerns](#)

[E1465 Practice for Radon Control Options for the Design and Construction of New Low-Rise Residential Buildings \(Withdrawn 2017\)](#)⁵

[E1527 Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process](#)

[E1903 Practice for Environmental Site Assessments: Phase II Environmental Site Assessment Process](#)

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

[E2121 Practice for Installing Radon Mitigation Systems in Existing Low-Rise Residential Buildings](#)

[E2308 Guide for Limited Asbestos Screens of Buildings \(Withdrawn 2014\)](#)⁵

[E2356 Practice for Comprehensive Building Asbestos Surveys](#)

[E2418 Guide for Readily Observable Mold and Conditions Conducive to Mold in Commercial Buildings: Baseline Survey Process \(Withdrawn 2015\)](#)⁵

[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:⁶

[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 and the Brownfields Utilization, Investment, and Local Development Act of 2018 \(“BUILD”\) 42 U.S.C. § 960 *et seq.*](#)

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 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 last approved version of this historical standard is property referenced use remain commercial on www.astm.org.

⁶ Available from U.S. Government Publishing Office (GPO), 732 N. Capitol St., NW, Washington, DC 20401, <http://www.gpo.gov>.

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–§ 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 USEPA Documents:⁷

“All Appropriate Inquiry” Final Rule (40 CFR, Part 312)

Chapter 1 EPA, Subchapter J—Superfund, Emergency Planning, and Community Right-To-Know Programs, 40 CFR, Parts 300-399

National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR, Part 300

2.4 Other Federal Agency Documents:⁶

OSHA Hazard Communication Regulation, 29 CFR, 1910.1200 § 1910.1200

3. Terminology

3.1 *Scope*—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. In determining the meaning of any term used in this practice, unless the context indicates otherwise, words referencing the singular include and apply to multiple examples of the same thing; words referencing the plural include the singular.

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, (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, ground water, 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, ground water, or surface water on the *property*.

3.2.2.1 Discussion—

The term *activity and use limitation (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 is 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 thoroughfare separating them.

3.2.5 *aerial photographs*—*photographs, n*—The term “*aerial photographs*” means photographs taken from an aerial platform with sufficient resolution to allow identification of development and activities of areas encompassing the *property*. Aerial photographs are often available from government agencies, libraries, historical societies, private collections or from commercial companies. 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 or customary practice”—standards and practices as defined in CERCLA, 42 U.S.C. §9601(35)(B), § 9601(35)(B) and 40 C.F.R. Part 312, that will qualify a party to a *forestland* or *rural property*

⁷ Available from United States Environmental Protection Agency (EPA), William Jefferson Clinton Bldg., 1200 Pennsylvania Ave., NW, Washington, DC 20460, <http://www.epa.gov>.

transaction for one of the threshold criteria for satisfying the *LLPs* to CERCLA liability (42 U.S.C. §9601(A) and (B), §9607(b)(3), §9607(q); and §9607(r)), §§ 9601(A) and (B), § 9607(b)(3), § 9607(q), and § 9607(r)), assuming compliance with other elements of the defense. See [Appendix X1](#).

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 *area(s) of environmental interest—interest, n*—an area or areas of the *property* with indications of activity that could have resulted in the presence of a *recognized environmental condition*, especially areas where *hazardous substances* or *petroleum products* may be used, handled, managed or stored or may have been used, handled, managed or stored in the past.

3.2.9 *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.

3.2.10 *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–§ 9601 *et seq.*

3.2.11 *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 *subject property*. Often building department records are located in the building department of a municipality or county. See [8.3.4.3\(5\)](#).

3.2.12 *business environmental risk—risk (BER), n*—a risk which that 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 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.

<https://standards.iteh.ai/catalog/standards/astm/e573c59a-7450-4aa1-bc61-ee91d43ada37/astm-e2247-23>

3.2.13 *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 construction* of such *dwellings* for profit.

3.2.14 *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 construction* or developing *dwelling* units.

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

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

3.2.16 ~~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.~~

3.2.17 ~~contiguous property owner liability protection—[42 U.S.C. § 9607(q)], n—(42 U.S.C. §9607(q)). A 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.practice.~~

3.2.18 ~~controlled recognized environmental condition—condition, n—a recognized environmental condition resulting from a past release of affecting the hazardous substancessubject property 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, limitationsinstitutional controls, or engineering controlsother)property. A condition use limitations considered by the). For examples environmental professional to be a controlled recognized environmental condition shall be listed in the findings section of the of Phase I Environmental Site Assessment report,controlled recognized environmental conditions, andsee Appendix X4as a recognized environmental condition in the conclusions section of the .Phase I Environmental Site Assessment report.~~

~~Note 1—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.~~

3.2.18.1 Discussion—

~~Identification of a controlled recognized environmental condition is a multi-step process that must be reflected in the report’s Findings and Opinions sections, as described in 12.5 and 12.7, 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 (where allowed), documentation and relevant data that satisfy risk-based criteria established by the applicable regulatory authority.~~

~~(2) In determining whether a recognized environmental condition is “subject to implementation of controls (for example, property use limitations or activity and use limitations),” the environmental professional shall identify the documentation providing the property use limitation or activity and use limitation 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 controls (for example, property use limitations or activity and use limitations),” this determination does not imply that the environmental professional has evaluated or confirmed the adequacy, implementation, or continued effectiveness of the property use limitation or activity and use limitation.~~

~~(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. 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 controlled recognized environmental condition.~~

~~3.2.20 CORRACTS list—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) who have been notified by the EPA to undertake corrective action under the Resource Conservation and Recovery Act (RCRA):~~

3.2.19 ~~data failure—failure, n—a failure to achieve the historical research objectives in 8.3.1 through 8.3.2.2 even after reviewing the standard historical sourcesresources in 8.3.48.3.4.1 through 8.3.4.3 that are reasonably ascertainable and likely to be useful. Data failure is one type of data gap. See 8.3.2.38.3.7.~~

3.2.20 *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, and so forth). See [12.712.5.1](#).

3.2.21 *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 conditions* are not condition is not a *recognized environmental conditions* condition or nor a *controlled recognized environmental conditions* condition.

3.2.22 *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*.

3.2.23 *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*.

3.2.24 *dry wells*—*wells, n*—underground areas where soil has been removed and typically 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).

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

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

3.2.27 *Emergency Response engineering controls, Notification n—System (ERNS) list*—EPA’s list of reported CERCLA 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* substances or *releases* petroleum products or spills in quantities greater than the reportable quantity, as maintained at the National Response Center. Notification requirements for such in the soil or groundwater on a *releases* property. or Engineering controls spills are codified in 40 are a type of *CFR Parts 302 and 355* activity and use limitation (AUL).

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

3.2.29 *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*.

3.2.30 *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) and 9607(r) and similar state or local laws.

3.2.31 *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*.

3.2.32 *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* (see [Appendix X1](#)).

3.2.33 *Federal Register/ERNS list, (FR)*—~~n—publication of the United EPA’s emergency response notification system list of reported CERCLA States government published hazardous substance releases 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 or spills in quantities greater than the reportable quantity, as maintained at the National Response Center. Notification requirements for such are releases included in the CFR, as well as published in the or spills are codified in 40 C.F.R. Parts 302 and Federal Register.355.~~

3.2.34 *fill dirt*—*dirt, n—dirt*, soil, sand, or other earth, that is obtained offsite, 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.

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

3.2.36 *forestland*—*forestland, n—property* that is either unmanaged *land* or managed *land* where forest management principles are applied to the regeneration, utilization, productivity, and conservation of forests to meet specific goals. Both managed and unmanaged *forestland* may have roads and limited areas of development.

3.2.37 *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.

3.2.38 *hazardous substance*—*substance, n—*a substance defined as a *hazardous substance* pursuant to CERCLA 42 U.S.C. §9601(14)—§ 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+§ 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), 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](#) and [X6.10](#).

3.2.39 *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+§§ et seq-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 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.”

3.2.40 *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.

3.2.41 *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 meets unrestricted residential 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

~~engineering controls/other property use limitations~~). ~~Before calling the past historical recognized environmental release condition~~ is not a ~~historical-recognized environmental condition~~, ~~condition~~. ~~For examples of environmental professional historical recognized environmental conditions, must see Appendix X4~~ determine whether the past release is a recognized environmental condition at the time the Phase I Environmental Site Assessment 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 at 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.

3.2.41.1 Discussion—

Identification of a *historical recognized environmental condition* is a multi-step process that must 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 unrestricted use criteria established by a 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*.

3.2.42 ~~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 ~~Limitations~~ *Limitation* (PA ~~AUL~~) *AUL* Registry.

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3.2.43 ~~innocent landowner defense—[42 U.S.C. §§ 9601(35) & 9607(b)(3)], n—(42 U.S.C. §§ 9601(35) & 9607(b)(3))~~. A person may qualify as one of three types of ~~innocent landowners~~: ~~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 *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.

3.2.44 ~~institutional controls (IC)—(IC), n—~~a legal or administrative restriction (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 ground 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*. An institutional control is a type of ~~Activity and Use Limitation~~ *activity and use limitation* (*AUL*).

3.2.45 ~~interviews—interviews, n—~~those portions of this practice that are contained in Sections ~~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.

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

3.2.47 ~~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, 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 typically held at the county, Tribal or administrative office, or Bureau of Indian Affairs. These 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*.

3.2.48 *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.

3.2.49 *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* and *landowners*, from CERCLA liability. See 42 U.S.C. §9601(35)(A), 9601(40), 9607(b), 9607(q); §§ 9601(35)(A), 9601(40), 9607(q), and 9607(r).

3.2.51 *leaking underground storage tank (LUST) sites list*—state lists of leaking underground storage tank sites. Section 9003 (h) of Subtitle I of 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).

3.2.52 *lessee*—individual or entity which does not own the *property* but has a written lease or other agreement to use the *property*.

3.2.50 *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.

3.2.51 *major occupants*—*occupants, n*—those *occupants*, *sub occupants*, or other persons or entities each of which uses at least 40 % of the leasable area of the *subject property*.

3.2.52 *material safety data sheet (MSDS)*—(*MSDS, n*)—~~written or printed material concerning a see hazardous substance~~ *Safety Data* which is prepared by chemical manufacturers, importers, and employers for hazardous chemicals pursuant to OSHA's Hazard Communication Standard, 29 CFR 1910.1200. This term was changed to *Sheet, safety data sheet (SDS)* in the 2012 revisions to OSHA's Hazard Communication Standard, 29 CFR 1910.1200 (see section 3.2.88).

3.2.53 *material threat*—*threat, n*—~~a physically observable or an 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*.

3.2.54 *migrate/migration*—*migrate/migration, n/v*—for the purposes of this practice, “migrate” and “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.

NOTE 2—Vapor migration in the subsurface is described in Guide E2600; however, nothing in this practice should be construed to require application of the E2600 standard guide to achieve compliance with all appropriate inquiries.

3.2.54.1 Discussion—

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

3.2.58 *National Contingency Plan (NCP)*—the National Oil and Hazardous Substances Pollution Contingency Plan, found at 40 CFR Part 300; that is, the EPA's blueprint on how *hazardous substances* are to be cleaned up pursuant to CERCLA.

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

3.2.56 *Natural Areas Inventory*, (*NAI*)—*n*—list compiled by various state agencies that shows records of reported observations of threatened and endangered species.

3.2.57 *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.~~

3.2.58 *occupant*—*occupants*, *n*—~~a person or entity who is using the~~ those tenants, subtenants, or other persons or entities using a property or a portion of the property and includes, but is not limited to, scattered residential tenancies, agricultural and silvicultural tenancies, small-scale commercial/industrial tenancies, and recreational tenancies such as hunting clubs.

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

3.2.60 *other historical sources*—*resources*, *n*—any ~~source or sources resource~~ other than those designated in 8.3.4.1 and through 8.3.4.28, 3.4.3 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 8.3.4.38, 3.5.

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

3.2.62 *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).”

3.2.63 *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, kerosene, diesel oil, jet fuels, and fuel oil, pursuant to *Standard Definitions of Petroleum Statistics*.⁸

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

3.2.65 *physical setting sources*—*resources*, *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.

3.2.66 *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.

3.2.67 *practically reviewable*—*reviewable*, *adv*—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

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

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*.

3.2.68 ~~property~~—*property, n*—the real *property* that is the subject of the including environmental site assessment described in this practice. Real *property* includes, but is not limited to, buildings and other fixtures, and improvements located on the property and affixed to the land.

3.2.69 *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.

3.2.70 ~~property tax files~~—*files, n*—the files kept for *property* tax purposes by the local jurisdiction where the which may property include is located and includes 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.

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

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

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

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

3.2.73 *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.

3.2.74 *reasonably ascertainable*—*ascertainable, adv*—for purposes of this practice, information that is (1) *publicly available*, (2) obtainable from its source within reasonable time and cost constraints, and (3) *practically reviewable*.

3.2.75 *recognized environmental conditions*—*condition, n*—(1) the presence or likely presence of any of *hazardous substances* or *petroleum products* in, on, or at the *subject property*: (1) due to release to the environment; (2) under conditions indicative the likely presence of *hazardous substances* or *petroleum products* in, on, or at the *subject property* due to a release or likely release to the environment; or (3) 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.~~

3.2.75.1 *Discussion*—

For the purposes of this definition, “likely” is that which is neither certain or 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.

3.2.75.2 *Discussion*—

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

3.2.81 *recorded land title records*—records of historical fee ownership, leases, land contracts, AULs, easements, liens, and other encumbrances 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*.

3.2.82 *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).

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

3.2.77 *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 Appendix X1~~) section ~~X1.1.1~~ “*Release*” “*Releases*” or “*Threatened Release*.” “*Releases*.”

3.2.85 *relevant man-made changes*—generally include commercial or industrial buildings intended to enhance a *property’s* value or adapt it for new or further purposes such that said changes render the *property* commercial real estate.

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

3.2.79 *rural property*—*property, n*—*property* that has a low human population density and is undeveloped or has limited areas of development.

3.2.80 *safety data sheets* (*SDS*)—*n*—document describing a written or printed hazardous substance material that which is prepared by chemical manufacturers, importers, and employers for hazardous chemicals is prepared by chemical manufacturers and importers for distributors and employers use, that provides comprehensive information regarding a *hazardous substance* pursuant to OSHA’s revised OSHA’s Hazard Communication Standard, 29 CFR 1910.1200. Similar documentation was previously referred to as a *Standard (HCS)*, 29 C.F.R. § 1910.1200. material safety data sheet (MSDS). See 3.2.55.

3.2.81 *silvicultural*—*silvicultural, adj*—following generally accepted forest management principles for tending, harvesting, and reproducing forests and crops.

3.2.82 *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*.

3.2.83 *site visit*—*visit, n*—the visit to the *subject property* during which observations are made constituting as required by the *site reconnaissance* section of this practice. The *site visit* may include several visits to the site to ensure the methodology of the *site visit* is met (for example, large parcels of land).

3.2.83.1 *Discussion*—

The *site visit* may include several visits to the *subject property* to ensure the methodology of the *site visit* is met (for example, large parcels of land).

3.2.84 *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.

3.2.85 *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.

3.2.86 *standard government environmental record sources*—*resources, n*—those records specified in [8.2.48.2.2](#).

3.2.87 *standard historical sources*—*resources, n*—those ~~sources~~*resources* of information about the history of uses of *property-properties* specified in [8.3.4](#).

3.2.88 *standard physical setting source*—*resources, n*—a ~~current~~*recent USGS 7.5 Minute Topographic Map* showing—(or equivalent) showing contour lines and the area on which the *subject property* is located. See [8.2.48.2.1](#).

3.2.89 *standard practice(s)*—*practice, n*—the activities set forth in this practice.

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

~~3.2.99 *state registered USTs list*—state lists of underground storage tanks required to be registered under Subtitle I, Section 9002 of RCRA.~~

3.2.91 *Streamside Management Zone (SMZ)*—(*SMZ, n*)—an area of varying width adjacent to a watercourse in which special management precautions are necessary to protect natural resources.

3.2.92 *subject property, n*—the *property* that is the subject of the *environmental site assessment* described in this practice.

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

3.2.94 *threatened species*—*topographic map, n*—the term means, as defined in the Federal Endangered Species Act, any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range; graphic representation delineating natural and manmade features of an area or region in a way that shows their relative positions and elevations.

3.2.95 *TSD facility*—*facility, n*—treatment, storage, or disposal facility (see [3.2.73](#) RCRA TSD facilities).

3.2.96 *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.

3.2.97 *underground storage tank (UST)*—*tank, 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.

3.2.98 *user*—*user, n*—the party seeking to use this E2247 practice to complete an *environmental site assessment* of the *subject property*. A user may include, without limitation, a purchaser of property, a potential occupant 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 as outlined in Section 6.

3.2.98.1 *Discussion*—

A user may include, without limitation, a potential purchaser of the *subject property*, a potential tenant of the *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.

3.2.99 *USGS 7.5 Minute Topographic Map*—*Map, n*—the map (if any) available from or produced by the United States Geological