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Standard Practice for Environmental Site Assessments: Transaction Screen Process[1]

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1. Scope

1.1 *Purpose*—The purpose of this practice, as well as Practice E 1527, 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) 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 defense* to CERCLA liability: that is, the practices that constitute "all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice" as defined in 42 USC § 9601(35)(B). (See Appendix X1 for an outline of CERCLA's liability and defense provisions.) An evaluation of *business environmental risk* associated with a parcel of commercial real estate may necessitate investigation beyond that identified in this practice (see Sections 1.3 and 11).

1.1.1 *Recognized Environmental Conditions*—In defining a standard of good commercial and customary practice for conducting an *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* means the presence or likely presence of any *hazardous substances* or *petroleum products* on a *property* under conditions that indicate an existing release, a past release, or a material threat of a release of any *hazardous substances* or *petroleum products* into structures on the *property* or into the ground, ground water, or surface water of the *property*. The term includes *hazardous substances* or *petroleum products* even under conditions in compliance with laws. The term is not intended to include *de minimis* conditions that generally do not present a material risk of harm to public 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 determined to be *de minimis* are not *recognized environmental conditions*.

1.1.2 *Two Related Practices*—This practice is closely related to Practice E 1527, a *Phase I Environmental Site Assessment*. Both are *environmental site assessments* for *commercial real estate*. See 4.3.

1.1.3 *Petroleum Products—Petroleum products* are included within the scope of both practices because they are of concern on 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*.

1.1.4 *CERCLA Requirements Other Than Appropriate Inquiry*—This practice does not address whether requirements in addition to *appropriate inquiry* have been met in order to qualify for CERCLA's *innocent landowner defense* (for example, the duties specified in 42 USC § 9607(b)(3)(a) and (b) and cited in Appendix X1).

1.1.5 *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 appropriate inquiry provisions of CERCLA's *innocent landowner defense*. 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 *property* that are not addressed in this practice and may pose risks of civil and/or criminal sanctions for noncompliance.

1.2 *Objectives*—Objectives guiding the development of this practice and Practice E 1527 are (1) to synthesize and put in writing good commercial and customary practice for *environmental site assessments* for *commercial real estate*, (2) to facilitate highquality, standardized *environmental site assessments*, (3) to ensure that the standard of *appropriate inquiry* is practical and reasonable, and (4) to clarify an industry standard

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[2] All definitions, descriptions of terms, and acronyms are defined in Section 3 of Practice E 1527. Whenever terms defined in 3.2 or described in 3.3 are used in this practice, they are in *italics*.

for *appropriate inquiry* in an effort to guide legal interpretation of CERCLA's *innocent landowner defense*.

1.3 *Considerations Beyond the Scope*—The use of this practice is strictly limited to the scope set forth in this section. Section 11 of this practice identifies, for informational purposes, certain environmental conditions (not an all-inclusive list) that may exist on a *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 scope of services should be evaluated based upon, among other factors, the nature of the property and the reasons for performing the assessment (for example, a more comprehensive evaluation of *business environmental risk*) and should be agreed upon 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 several parts and two appendixes. Section 1 is the Scope. Section 2 refers to other ASTM standards in the 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 is the Introduction to the Transaction Screen Questionnaire. Section 6 sets forth the Transaction Screen Questionnaire itself. Sections 7-10 contain the Guide to the Transaction Screen Questionnaire and its various parts. Section 11 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 either Practice E 1527 or this practice. Appendix X1 and Practice E 1527 explain 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 and this practice. Appendix X2 provides information referred to in the guide to the transaction screen questionnaire.

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.*

2. Referenced Documents

2.1 *ASTM Standards:* [3]

E 1527 Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process

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 and Practice E 1527. The terms are an integral part of both practices and are critical to an understanding of the written practices and their use.

[3] 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.

3.2 *Definitions:*

3.2.1 *activity and use limitations*—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 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. 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 in the soil or ground water on the property.

3.2.2 *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.

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

3.2.4 *contaminated public wells*—public wells used for drinking water that have been designated by a government entity as contaminated by toxic substances, (for example, chlorinated solvents), or as having water unsafe to drink without treatment.

3.2.5 *CORRACTS list*—list of hazardous waste treatment, storage or disposal facilities and other RCRIS facilities (due to past interim status or storage of hazardous waste beyond 90 days) who have been notified by the U.S. Environmental Protection Agency to undertake corrective action under RCRA.

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

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

3.2.8 *dry wells*—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).

3.2.9 *dwelling*—structure or portion thereof used for residential habitation.

3.2.10 *engineering controls*—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 in the soil or ground water on the property.

3.2.11 *environmental lien*—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 USC § 9607(1) and similar state or local laws.

3.2.12 *ERNS list*—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 Parts 302 and 355.

3.2.13 *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.

3.2.14 *fire insurance maps*—maps produced for private fire insurance map companies that indicate uses of properties at specified dates and that encompass the property. These maps are often available at local libraries, historical societies, private resellers, or from the map companies who produced them. See Question 2310.3.1.3 of the transaction screen process in this practice and 7.3.4.2 of Practice E 1527.

3.2.15 *hazardous substance*—a substance defined as a hazardous substance pursuant to CERCLA 42 USC § 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 Solid Waste Disposal Act (42 USC § 6921) (but not including any waste the regulation of which under the Solid Waste Disposal Act (42 USC § 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 USC § 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.)

3.2.16 *hazardous waste*—any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (42 USC § 6921) (but not including any waste the regulation of which under the Solid Waste Disposal Act (42 USC § 6901 *et seq*.) has been suspended by Act of Congress). The Solid Waste Disposal Act of 1980 amended RCRA. The RCRA defines a hazardous waste, in 42 USC § 6903, as:

"a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may—(A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, 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."

3.2.17 *institutional controls*—a legal or administrative restriction (for example, deed restriction, restrictive zoning) on the use of, or access to, a site or facility to reduce or eliminate potential exposure to hazardous substances in the soil or ground water on the property.

3.2.18 *landfill*—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.

3.2.19 *local street directories*—directories published by private (or sometimes government) sources that show ownership, occupancy, use of sites and/or by reference to street addresses. Often local street directories are available at libraries of local governments, colleges or universities, or historical societies. See 7.3.4.6 of the Records Review Section of Practice E 1527.

3.2.20 *material safety data sheet (MSDS)*—written or printed material concerning a *hazardous substance* which is prepared by chemical manufacturers, importers, and employers for hazardous chemicals pursuant to OSHA's Hazard Communication Standard, 29 CFR 1910.1200(g).

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

3.2.22 *National Priorities List (NPL)*—list compiled by EPA pursuant to CERCLA 42 USC § 9605(a)(8)(B) of properties with the highest priority for cleanup pursuant to EPA's hazard ranking system. See 40 CFR Part 300.

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

3.2.24 *owner*—generally the fee owner of record of the *property*.

3.2.25 *petroleum exclusion*—the exclusion from CERCLA liability provided in 42 USC § 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)."

3.2.26 *petroleum products*—those substances included within the meaning of the terms within the *petroleum exclusion* to CERCLA, 42 USC § 9601(14), as interpreted by the courts and EPA, that is: petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a *hazardous substance* under Subparagraphs (A) through (F) of 42 USC § 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*.[4]

3.2.27 *Phase I Environmental Site Assessment*— the process described in Practice E 1527.

3.2.28 *pits, ponds, or lagoons*—man-made 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.

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

3.2.30 *property tax files*—the files kept for property tax purposes by the local jurisdiction where the property is located and includes records of past ownership, appraisals, maps, sketches, photos, or other information that is reasonably ascertainable and pertaining to the property. See 7.3.4.3 of the Records Review Section of Practice E 1527.

3.2.31 *RCRA generators*—those persons or entities which generate *hazardous wastes*, as defined and regulated by RCRA.

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

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

3.2.34 *RCRA TSD facilities list*—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.

3.2.35 *recorded land title records*—records of fee ownership, leases, land contracts, 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. See 7.3.4.4 of the Records Review Section of Practice E 1527.

3.2.36 *records of emergency release notifications (SARA § 304)*—Section 304 of EPCRA or Title III of SARA 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" (SARA §304).

3.2.37 *report*—the written record of a transaction screen process as required by Practice E 1527 or the written report prepared by the environmental professional and constituting part of a *Phase I Environmental Site Assessment*, as required by Practice E 1527.

3.2.38 *solid waste disposal site*—a place, location, tract of land, area, or premises used for the landfill 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.

3.2.39 *solvent*—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.

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

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

3.2.42 *TSD Facility*—treatment, storage, or disposal facility (see definition of *RCRA TSD facilities*).

3.2.43 *underground storage tank (UST)*—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.

3.2.44 *USGS 7.5 Minute Topographic Map*—the map (if any) available from or produced by the United States Geological Survey, entitled "USGS 7.5 Minute Topographic Map," and showing the *property*. See 7.3.4.5 of Practice E 1527.

3.2.45 *wastewater*—water that is or has been used in an industrial or manufacturing process, conveys or has conveyed sewage, or 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.

3.2.46 *zoning/land use records*—those records of the local government in which the *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 7.3.4.8 of the Records Review Section of Practice E 1527.

3.3 *Definitions of Terms Specific to This Standard:*

3.3.1 *actual knowledge*—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. (See 5.5.3.)

[4] *Standard Definitions of Petroleum Statistics*, American Petroleum Institute, Fourth Edition, 1988.

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

3.3.3 *aerial photographs*—photographs taken from an airplane or helicopter of areas encompassing the property. Aerial photographs are often available from government agencies or private collections unique to a local area. See 7.3.4.1 of Practice E 1527.

3.3.4 *appropriate inquiry*—that inquiry constituting "all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice" as defined in CERCLA, 42 USC § 9601(35)(B), that will give a party to a *commercial real estate* transaction the *innocent landowner defense* to CERCLA liability (42 USC § 9601(A) and (B) and 9607(b)(3)), assuming compliance with other elements of the defense. See Appendix X1 and Practice E 1527.

3.3.5 *approximate minimum search distance*—the area for which records must be obtained and reviewed pursuant to the Records Review Section of Practice E 1527, subject to the limitations provided in that section. The term *approximate minimum search distance* may include areas outside the *property* and shall be measured from the nearest *property* boundary. The term *approximate minimum search distance* is used instead of radius to include irregularly shaped properties.

3.3.6 *building department records*—those records of the local government in which the 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 7.3.4.7 of Practice E 1527.

3.3.7 *business environmental risk*—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 to those environmental issues required to be investigated in this practice. Consideration of *business environmental risk* issues may involve addressing one or more non-scope considerations, some of which are identified in Section 11.

3.3.8 *commercial real estate*—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 the term commercial real estate when it has a commercial function, as in the building of such dwellings for profit). The term *commercial real estate* 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.

3.3.9 *commercial real estate transaction*—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 or developing dwelling units.

3.3.10 *due diligence*—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 and Practice E 1527.

3.3.11 *environmental audit*—the investigative process to determine if the operations of an existing facility are in compliance with applicable environmental laws and regulations. The term *environmental audit* should not be used to describe this practice or Practice E 1527 although an environmental audit may include an *environmental site assessment* or, if prior audits are available, may be part of an environmental site assessment. See Appendix X1 and Practice E 1527.

3.3.12 *environmental professional*—a person possessing sufficient training and experience necessary to conduct a *site reconnaissance, interviews*, and other activities in accordance with Practice E 1527, and from the information generated by such activities, having the ability to develop opinions and conclusions regarding *recognized environmental conditions* in connection with the *property* in question. An individual's status as an environmental professional may be limited to the type of assessment to be performed or to specific segments of the assessment for which the professional is responsible. The person may be an independent contractor or an employee of the *user*.

3.3.13 *environmental site assessment (ESA)*—the process by which a person or entity seeks to determine if a particular parcel of real *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 *appropriate inquiry* or, if the user is not concerned about qualifying for the *innocent landowner defense*, less inquiry than that constituting *appropriate inquiry*. See Appendix X1 and Practice E 1527. An environmental site assessment is both different from and less rigorous than an *environmental audit*.

3.3.14 *fill dirt*—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.

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

3.3.16 *historical recognized environmental condition*—environmental condition which in the past would have been considered a *recognized environmental condition*, but which

may or may not be considered a *recognized environmental condition* currently. The final decision will be influenced by the current impact of the *historical recognized environmental condition* on the property.

3.3.17 *innocent landowner defense*—that defense to CERCLA liability provided in 42 USC § 9601(35) and § 9607(b)(3). One of the requirements to qualify for this defense is that the party make "all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice." There are additional requirements to qualify for this defense. See discussion in Appendix X1 and Practice E 1527.

3.3.18 *interviews*—those portions of the *Phase I Environmental Site Assessment* in Practice E 1527 that are contained in Sections 9 and 10 thereof and addresses questions to be asked of *owners* and *occupants* of the *property* and questions to be asked of local government officials.

3.3.19 *key site manager*—the *key site manager* is the person identified by the *owner* of a *property* as having good knowledge of the uses and physical characteristics of the property. See 9.5.1 of Practice E 1527.

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

3.3.21 *LUST sites*—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.

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

3.3.23 *material threat*—a physically observable or obvious threat which is reasonably likely to lead to a release that, in the opinion of the *environmental professional*, is threatening and might result in impact to public health or the environment. An example might include an aboveground storage tank 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.

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

3.3.25 *other historical sources*—any source or sources other than those designated in 7.3.4.1 through 7.3.4.8 of Practice E 1527 that are credible to a reasonable person and that identify past uses or occupancies of the *property*. The term includes records in the files, and/or personal knowledge of the *property owner* and/or *occupants*. See 7.3.4.9 of the Records Review Section of Practice E 1527.

3.3.26 *physical setting sources*—sources that provide information about the geologic, hydrogeologic, hydrologic, or topographic characteristics of a *property*. See 7.2.3 of Practice E 1527.

3.3.27 *practically reviewable*—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 *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 *property* or a geographic area in which the *property* is located are not generally *practically reviewable*. Listings in publicly available records that do not have adequate address information to be located geographically are not generally considered *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. For large databases with numerous facility 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 is generated that it cannot be feasibly reviewed for its impact on the property, it is not *practically reviewable*.

3.3.28 *preparer*—the person preparing the *transaction screen questionnaire* pursuant to this practice, who may be either the *user* or the person to whom the *user* has delegated the preparation.

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

3.3.30 *reasonably ascertainable*—for purposes of both this practice and Practice E 1527 information that is *publicly available*, obtainable from its source within reasonable time and cost constraints, and *practically reviewable*.

3.3.31 *recognized environmental conditions*—the presence or likely presence of any *hazardous substances* or *petroleum products* on a *property* under conditions that indicate an existing release, a past release, or a material threat of a release of any *hazardous substances* or *petroleum products* into structures on the *property* or into the ground, ground water, or surface water of the *property*. The term includes *hazardous substances* or *petroleum products* even under conditions in compliance with laws. The term is not intended to include *de minimis* conditions that generally do not present a material risk of harm to public 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 determined to be *de minimis* are not *recognized environmental conditions.*

3.3.32 *records review*—that part of the *Phase I Environmental Site Assessment* in Practice E 1527 that is contained in Section 7 thereof and addresses which records shall or may be reviewed.

3.3.33 *site reconnaissance*—that part of the *Phase I Environmental Site Assessment* in Practice E 1527 that is contained in Section 8 thereof 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 as *Phase I Environmental Site Assessment*.

3.3.34 *site visit*—the visit to the property during which observations are made constituting the *site reconnaissance* section of the *Phase I Environmental Site Assessment* in Practice E 1527 and the *site visit* requirement of the transaction screen process in this practice.

3.3.35 *standard environmental record sources*— those records specified in 7.2.1.1 of the Records Review Section of the *Phase I Environmental Site Assessment* of Practice E 1527.

3.3.36 *standard historical sources*—those sources of information about the history of uses of property specified in 7.3.4 of the Records Review Section of the *Phase I Environmental Site Assessment* of Practice E 1527.

3.3.37 *standard physical setting source*—a current USGS 7.5 minute topographic map (if any) showing the area on which the property is located. See 7.2.3 of Practice E 1527.

3.3.38 *standard practice(s)*—the activities set forth in either this practice or Practice E 1527, or both, for the conduct of environmental site assessments.

3.3.39 *standard sources*—sources of environmental, physical setting, or historical records specified in the Records Review Section (Section 7) of the *Phase I Environmental Site Assessment* of Practice E 1527.

3.3.40 *transaction screen questionnaire*—the questionnaire provided in Section 6 of Practice E 1527.

3.3.41 *transaction screen process*—the process described in Practice E 1527.

3.3.42 *user*—the party seeking to use the transaction screen process of this practice or the *Phase I Environmental Site Assessment* of Practices E 1527 or E 1528 to perform an *environmental assessment* of the *property*. A *user* may include, without limitation, a purchaser of *property*, a potential tenant of *property*, an *owner* of *property*, a lender, or a property manager.

3.3.43 *visually and/or physically observed*—during a *site visit* pursuant to the *transaction screen process* of this practice or pursuant to a *Phase I Environmental Site Assessment* of Practice E 1527, the term *visually and physically observed* means observations made by vision upon walking through a *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 *site visit*; they may do so by the means at their disposal for moving through the *property* and the structures located on it.

3.4 *Acronyms:Acronyms:*

3.4.1 *CERCLA*—Comprehensive Environmental Response, Compensation and Liability of 1980 Act (as amended, 42 USC § 9601 *et seq*.).

3.4.2 *CERCLIS*—Comprehensive Environmental Response, Compensation and Liability Information System maintained by EPA.

3.4.3 *CFR*—Code of Federal Regulations.

3.4.4 *CORRACTS*—facilities subject to Corrective Action under RCRA.

3.4.5 *EPA*—United States Environmental Protection Agency.

3.4.6 *EPCRA*—Emergency Planning and Community Right to Know Act (also known as SARA Title III), (42 USC § 11001 *et seq*.).

3.4.7 *ERNS*—Emergency Response Notification System.

3.4.8 *ESA*—environmental site assessment (different than an environmental audit; see 3.3.13).

3.4.9 *FOIA*—U.S. Freedom of Information Act (5 USC § 552 *et seq*.).

3.4.10 *FR*—Federal Register.

3.4.11 *LUST*—leaking underground storage tank.

3.4.12 *MSDS*—material safety data sheet.

3.4.13 *NCP*—National Contingency Plan.

3.4.14 *NFRAP*—former CERCLIS sites where no further remedial action is planned under CERCLA.

3.4.15 *NPDES*—National Pollutant Discharge Elimination System.

3.4.16 *NPL*—National Priorities List.

3.4.17 *PCBs*—polychlorinated biphenyls.

3.4.18 *PRP*—potentially responsible party (pursuant to CERCLA 42 USC § 9607(a).

3.4.19 *RCRA*—Resource Conservation and Recovery Act (as amended, 42 USC§ 6901 *et seq*.).

3.4.20 *SARA*—Superfund Amendments and Reauthorization Act of 1986 (amendment to CERCLA).

3.4.21 *TSDF*—hazardous waste treatment, storage or disposal facility.

3.4.22 *USC*—United States Code.

3.4.23 *USGS*—United States Geological Survey.

3.4.24 *UST*—underground storage 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*. While use of this practice is intended to constitute *appropriate inquiry* for purposes of CERCLA's *innocent landowner defense*, 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 *property*, and *environmental site assessments* that are both more and less comprehensive than this practice (including, in some instances, no *environmental site assessment*) may be appropriate in some circumstances. Further, no implication is intended that a person must 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.

4.2 *Clarifications on Use*:

4.2.1 *Use Not Limited to CERCLA*—This practice and Practice E 1527 are designed to assist the *user* in developing information about the environmental condition of a *property* and as such has utility for a wide range of persons, including those who may have no actual or potential CERCLA liability and/or may not be seeking the *innocent landowner defense*.

4.2.2 *Residential Tenants/Purchasers and Others*—No implication is intended that it is currently customary practice for residential tenants of multifamily residential buildings, tenants of single-family homes or other residential real estate, or purchasers of dwellings for residential use, to conduct an *environmental site assessment* in connection with these transactions. Thus, these transactions are not included in the term commercial real estate transactions, and it is not intended to imply that such persons are obligated to conduct an *environmental site assessment* in connection with these transactions for purposes of *appropriate inquiry* or for any other purpose. In addition, no implication is intended that it is currently customary practice for *environmental site assessments* to be conducted in other unenumerated instances (including but not limited to many commercial leasing transactions, many acquisitions of easements, and many loan transactions in which the lender has multiple remedies). On the other hand, anyone who elects to do an *environmental site assessment* of any *property* or portion of a property may, in such person's judgment, use either this practice or Practice E 1527.

4.2.3 *Site-Specific*— This practice is site-specific in that it relates to assessment of environmental conditions on a specific parcel of *commercial real estate*. Consequently, this practice does not address many additional issues raised in transactions such as purchases of business entities, or interests therein, or of their assets, that may well involve environmental liabilities pertaining to properties previously owned or operated or other off-site environmental liabilities.

4.3 *Two Related Practices*—This practice sets forth one procedure for an environmental site assessment for purposes of appropriate inquiry necessary to qualify for CERCLA's *innocent landowner defense*, known as a "transaction screen process" or a transaction screen." This practice is a companion to Practice E 1527 that is called the "Phase I Environmental Site Assessment Process" or a "Phase I ESA" or simply a "Phase I." These practices are each intended to meet the standard of *appropriate inquiry* necessary to qualify for the *innocent landowner defense* of CERCLA. It is essential to consider that these two practices, taken together, provide for two alternative practices of appropriate inquiry: the *transaction screen process* described in this practice and the *Phase I Environmental Site Assessment* described in Practice E 1527.

4.3.1 *Election to Commence With Either Practice*—The *user* may commence inquiry to identify recognized *environmental conditions* in connection with a *property* by performing either the *transaction screen process* or the *Phase I Environmental Site Assessment*.

4.3.2 *Who May Conduct*— The *transaction screen process* may be conducted either by the *user* (including an agent, independent contractor or employee of the *user*) or wholly or partially by an *environmental professional*. The *transaction screen process* does not require the judgment of an *environmental professional*. Whenever a *Phase I Environmental Site Assessment* is conducted, it must be performed by an *environmental professional* to the extent specified in 6.5.1 through 6.5.2.1 of Practice E 1527. Further, at the *Phase I Environmental Site Assessment* level, no practical standard should be designed to eliminate the role of judgment and the value and need for experience in the party performing the inquiry. The professional judgment of an *environmental professional* is, consequently, vital to the performance of appropriate inquiry at the *Phase I Environmental Site Assessment* level.

4.3.3 *Completion of Transaction Screen Process*—Performance of the *transaction screen process* may allow the *user* to conclude that no further inquiry is needed to assess the potential for identifying any *recognized environmental condition* at the property and hence that performance of the *transaction screen process* constitutes *appropriate inquiry* without undertaking the *Phase I Environmental Site Assessment*. Upon completion of the *transaction screen process*, the *user* should conclude either (1) no further inquiry into recognized environmental conditions at the property is needed for purposes of *appropriate inquiry*, or (2) further inquiry is needed to assess *recognized environmental conditions* appropriately for purposes of *appropriate inquiry*. If no further inquiry is needed, the *user* has completed his or her *appropriate inquiry* of the *property*.

4.3.4 *Inquiry Beyond the Transaction Screen Process*—If further inquiry is needed after performance of the *transaction screen process* (as described in 4.3.3), the *user* must determine, in the exercise of the *user's* reasonable business judgment, whether further inquiry may be limited to those specific issues identified as of concern or should proceed to a full *Phase I Environmental Site Assessment*.

4.4 *Additional Services*—As set forth in 11.9 of Practice E 1527, additional services may be contracted for between the *user* and the *environmental professional(s)*.

4.5 *Principles*—The following principles are an integral part of this practice and are intended to be referred to in resolving any ambiguity or exercising such discretion as is accorded the *user* or *environmental professional* in performing an *environmental site assessment* or in judging whether a *user* or *environmental professional* has conducted *appropriate inquiry* or has otherwise conducted an adequate *environmental site assessment*.

4.5.1 No *environmental site assessment* can wholly eliminate uncertainty regarding the potential for *recognized environmental conditions* in connection with a *property.* Performance of either this practice or Practice E 1527 is intended to reduce but not eliminate uncertainty regarding the existence of *recognized environmental conditions* in connection with a property, and both practices recognize reasonable limits of time and cost.

4.5.2 *Appropriate inquiry* does not mean an exhaustive assessment of a clean *property*. There is a point at which the cost of information obtained or the time required to gather it outweighs the usefulness of the information and, in fact, may be a material detriment to the orderly completion of transactions. One of the purposes of this practice is to identify a

balance between the competing goals of limiting the costs and time demands inherent in performing an *environmental site assessment* and the reduction of uncertainty about unknown conditions resulting from additional information.

4.5.3 Not every *property* will warrant the same level of assessment. Consistent with good commercial or customary practice, the appropriate level of *environmental site assessment* will be guided by the type of property subject to assessment, the expertise and risk tolerance of the *user*, and the information developed in the course of the inquiry.

4.5.4 It should not be concluded or assumed that an inquiry was not an *appropriate inquiry* merely because the inquiry did not identify *recognized environmental conditions* in connection with a *property. Environmental site assessments* must be evaluated based on the reasonableness of judgments made at the time and under the circumstances in which they were made. Subsequent *environmental site assessments* should not be considered valid standards to judge the appropriateness of any prior assessment based on hindsight, new information, use of developing technology or analytical techniques, or other factors.

4.6 *Continued Viability of Environmental Site Assessment*—An *environmental site assessment* meeting or exceeding either this practice or Practice E 1527 and completed less than 180 days previously is presumed to be valid. An *environmental site assessment* meeting or exceeding either practice and completed more than 180 days previously may be used to the extent allowed by 4.7 through 4.7.5.

4.7 *Prior Assessment Usage*—Both this practice and Practice E 1527 recognize that *environmental site assessments* performed in accordance with these practices will include information which *users* or subsequent users may want to use to avoid undertaking duplicative assessment procedures. Therefore, the practices describe procedures to be followed to assist users in determining the appropriateness of using information in *environmental site assessments* performed previously. The system of prior assessment usage is based on the following principles that should be adhered to in addition to the specific procedures set forth elsewhere in these practices:

4.7.1 Subject to 4.7.4, *users* and *environmental professionals* may use information in prior *environmental site assessments* provided such information was generated as a result of procedures that meet or exceed the requirements of this practice or Practice E 1527 and then only provided that the specific procedures set forth in each practice are met.

4.7.2 Subject to 4.7.4, a prior *environmental site assessment* may be used in its entirety, without regard to the specific procedures set forth in these practices, if, in the reasonable judgment of the *user*: the prior *environmental site assessment* meets or exceeds the requirements of this practice or Practice E 1527, and the conditions at the *property* likely to affect *recognized environmental conditions* in connection with the *property* are not likely to have changed materially since the prior *environmental site assessment* was conducted. In making this judgment, the *user* should consider the type of *property* assessed and the conditions in the area surrounding the *property*.

4.7.3 Except as provided in 4.7.2 and 4.7.2 of Practice E 1527, prior *environmental site assessments* should not be used without current investigation of conditions likely to affect *recognized environmental conditions* in connection with the *property* that may have changed materially since the prior *environmental site assessment* was conducted. At a minimum, for a *transaction screen process* consistent with this practice, a new *site visit* should be performed.

4.7.4 If the *user* or *environmental professional(s)* conducting an *environmental site assessment* has *actual knowledge* that the information being used from a prior *environmental site assessment* is not accurate or if it is *obvious*, based on other information obtained by means of the *environmental site assessment* or known to the person conducting the *environmental site assessment*, that the information being used is not accurate, such information from a prior *environmental site assessment* may not be used.

4.7.5 The contractual and legal obligations between prior and subsequent *users* of *environmental site assessments* or between *environmental professionals* who conducted prior *environmental site assessments* and those who would like to use such prior *environmental site assessments* are beyond the scope of this practice.

4.8 The contractual and legal obligations between an *environmental professional* and a *user* (and other parties, if any) are beyond the scope of this practice. No specific legal relationship between the *environmental professional* and the *user* is necessary for the *user* to meet the requirements of this practice.

4.9 If the *user* is aware of any specialized knowledge or experience that is material to *recognized environmental conditions* in connection with the *property*, and the *preparer* is not the *user*, it is the *user*'s responsibility to communicate any information based on such specialized knowledge or experience to the *preparer*. The *user* should do so before the preparer makes the site visit.

4.10 In a transaction involving the purchase of a parcel of *commercial real estate*, if a *user* has *actual knowledge* that the purchase price of the property is significantly less than the purchase price of comparable properties, the *user* should try to identify an explanation for the lower price and to make a written record of such explanation. Among the factors to consider will be the information that becomes known to the *user* pursuant to the *transaction screen environmental site assessment*.

5. Introduction to Transaction Screen Questionnaire

5.1 *Process*—The *transaction screen process* consists of asking questions contained within the *transaction screen questionnaire* of *owners* and *occupants* of the *property*, observing site conditions at the *property* with direction provided by the *transaction screen questionnaire*, and, to the extent *reasonably ascertainable*, conducting limited research regarding certain *government records* and certain *standard historical sources*. The questions asked of *owners* are the same questions as those asked of *occupants*.

5.2 *Guide*—The *transaction screen questionnaire* is followed by a guide designed to assist the person completing the *transaction screen questionnaire*. The guide to the *transaction screen questionnaire* is set out in Sections 7-10 of this practice.

The guide is divided into three sections: Guide for Owner/Occupant Inquiry, Guide to Site Visit, and Guide to Government Records/Historical Sources Inquiry.

5.2.1 To assist the *user*, its employee or agent, or the *environmental professional* in preparing a report, the guide repeats each of the questions set out in the *transaction screen questionnaire* in both the guide for *owner/occupant inquiry* and the guide to *site visit*. The questions regarding *government records/historical sources inquiry* are also repeated in the guide to that section.

5.2.2 The guide also describes the procedures to be followed to determine if reliance upon the information in a prior *environmental site assessment* is appropriate under this practice.

5.2.3 A *user*, his employee or agent, or *environmental professional* conducting the *transaction screen process* should not use the *transaction screen questionnaire* without reference to, or familiarity from prior usage with, the guide.

5.3 *User and Preparer*—The *user* conducting the *transaction screen process* is the party seeking to perform *appropriate inquiry* with respect to the *property*. The *user* may delegate the preparation of the *transaction screen questionnaire* to an employee or agent of the *user* or may contract with a third party to prepare the questionnaire on behalf of the *user*. The person preparing the questionnaire is the *preparer*, who may be either the *user* or the person to whom the *user* has delegated the preparation of the *transaction screen questionnaire*.

5.4 *Exercise of Care*— The *preparer* conducting the transaction screen process should use good faith efforts in determining answers to the questions set forth in the transaction screen questionnaire. The *user* should take time and care to check whatever records are in the user's possession. The *preparer* should ask all persons to whom questions are directed to give answers to the best of the respondent's knowledge. As required by Section 9601(35)(B) of CERCLA, the *user* or *preparer* should discuss with a responsible person in authority in the user's organization (if any) any specialized knowledge or experience relating to *hazardous substances* on the *property* and the *preparer* should understand such information.

5.5 *Knowledge*—The owner or occupant of the *property* to which portions of the transaction screen questionnaire are directed should have sufficient knowledge and experience with respect to the property or in the owner's or occupant's particular business to understand the purpose and use of the transaction screen questionnaire. All answers should be given to the best of the owner's or occupant's actual knowledge.

5.5.1 While the person conducting the *transaction screen process* has an obligation to ask the questions set forth in the *transaction screen questionnaire*, in many instances the parties to whom the questions are addressed will have no obligation to answer them. The *user* is only required to obtain information to the extent it is *reasonably ascertainable*.

5.5.2 If the preparer asks the questions set forth in the *transaction screen questionnaire*, but does not receive any response or receives partial responses, the questions will be deemed to have been answered provided the questions have been asked, or were attempted to be asked, in person or by telephone and written records have been kept of the person to whom the questions were addressed and their responses, or the questions have been asked in writing sent by certified or registered mail, return receipt requested, postage prepaid, or by private, commercial overnight carrier and no responses have been obtained after at least two follow-up telephone calls were made or written request was sent again asking for responses.

5.5.3 The *transaction screen questionnaire* and the *transaction screen guide* sometimes include the phrase "to the best of your knowledge." Use of this phrase shall not be interpreted as imposing a constructive knowledge standard when it is not included or as imposing anything other than an *actual knowledge* standard for the person answering the questions, regardless of whether it is used. It is sometimes included as an assurance to the person being questioned that he or she is not obligated to search out information he or she does not currently have in order to answer the particular question.

5.6 *Conclusions Regarding Affirmative or Unknown Answers*—If any of the questions set forth in the transaction screen questionnaire are answered in the affirmative, the user must document the reason for the affirmative answer. If any of the questions are not answered or the answer is unknown, the user should document such nonresponse or answer of unknown and evaluate it in light of the other information obtained in the transaction screen process, including, in particular, the *site visit* and the government records/historical sources inquiry. If the *user* decides no further inquiry is warranted after receiving no response, an answer of unknown or an affirmative answer, the *user* must document the reasons for any such conclusion.

5.6.1 Upon obtaining an affirmative answer, an answer of unknown or no response, the *user* should first refer to the guide. The guide may provide sufficient explanation to allow a *user* to conclude that no further inquiry is appropriate with respect to the particular question.

5.6.2 If the guide to a particular question does not, in itself, permit a *user* to conclude that no further inquiry is appropriate, then the *user* should consider other information obtained from the *transaction screen process* relating to this question. For example, while on the site performing a *site visit*, a person may find a storage tank on the *property* and therefore answer Question 10 of the *transaction screen questionnaire* in the affirmative. However, during or subsequent to the *owner/occupant inquiry*, the *owner* may produce evidence that substances now or historically contained in the tank (for example, water) are not likely to cause contamination.

5.6.3 If either the guide to the question or other information obtained during the *transaction screen process* does not permit a *user* to conclude no further inquiry is appropriate with respect to such question, then the user must determine, in the exercise of the *user's* reasonable business judgment, based upon the totality of unresolved affirmative answers or answers of unknown received during the *transaction screen process*, whether further inquiry may be limited to those specific issues identified as of concern or should proceed with a full *Phase I Environmental Site Assessment*.

5.7 *Presumption*— A presumption exists that further inquiry is necessary if an affirmative answer is given to a question or because the answer was unknown or no response was given. In

rebutting this presumption, the *user* should evaluate information obtained from each component of the transaction screen process and consider whether sufficient information has been obtained to conclude that no further inquiry is necessary. The user must determine, in the exercise of the user's reasonable business judgment, the scope of such further inquiry: whether to proceed with a *Phase I Environmental Site Assessment* prepared in accordance with Practice E 1527 or a lesser inquiry directed at specific issues raised by the questionnaire.

5.8 *Further Inquiry Under Practice E 1527*—Upon completing the *transaction screen questionnaire*, if the *user* concludes that a *Phase I Environmental Site Assessment* is needed, the *user* should proceed with such inquiry with the advice and guidance of an *environmental professional*. Such further inquiry should be undertaken in accordance with Practice E 1527.

5.9 *Signature*—The *user* and the *preparer* of the *transaction screen questionnaire* must complete and sign the questionnaire as provided at the end of the questionnaire.

6. Transaction Screen Questionnaire

6.1 *Persons to Be Questioned*—The following questions should be asked of (*1*) the current *owner* of the *property*, (*2*) any major *occupant* of the *property* or, if the *property* does not have any major *occupants*, at least 10 % of the *occupants* of the *property*, and (*3*) in addition to the current *owner* and the *occupants* identified in (*2*), any *occupant* likely to be using, treating, generating, storing, or disposing of *hazardous substances* or *petroleum products* on or from the *property*. A major *occupant* is any *occupant* using at least 40 % of the leasable area of the property or any anchor tenant when the *property* is a shopping center. In a multifamily property containing both residential and commercial uses, the *preparer* does not need to ask questions of the residential *occupants*. The preparer should ask each person to answer all questions to the best of the respondent's *actual knowledge* and in good faith. When completing the *site visit* column, the *preparer* should be sure to observe the *property* and any buildings and other structures on the *property*. The guide provides further details on the appropriate use of this questionnaire.[5]

[5] Unk = "unknown" or "no response."