

TO: Rural Development State Directors,
Rural Development Managers, and
Community Development Managers

ATTN: Program Directors and State Environmental Coordinators

FROM: Arthur A. Garcia *(Signed by Arthur A. Garcia)*
Administrator
Rural Housing Service

SUBJECT: Standard Practice for Environmental Site Assessments:
Transaction Screen Questionnaire
(ASTM E-1528-00)

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice is to:

- (1) Transmit the ASTM E-1528-00 “Standard Practice for Environmental Site Assessments: Transaction Screen Questionnaire” and the Transaction Screen Questionnaire (TSQ) form; and
- (2) Provide clarification and guidance on the use of the Standard Practice and form.
- (3) Ensure that due diligence is conducted in a timely manner when required in loan making and servicing actions, particularly servicing actions that may lead to foreclosure.

COMPARISON WITH PREVIOUS AN:

This is a revision and reissue of RD AN No. 3738 (1940-G) that expired April 10, 2003.

IMPLEMENTATION RESPONSIBILITIES:

“Due diligence” is the term used to describe the process of inquiring into the environmental condition of real estate, in the context of a real estate transaction, to determine the potential for contamination from release of hazardous substances, hazardous wastes, and petroleum products, and further, to determine what impact such contamination may have on the regulatory status and the security value of the property.

EXPIRATION DATE:
October 30, 2004

FILING INSTRUCTIONS:
PRECEDING RD Instruction 1940-G

In order to assure that the Agency does not make loans or grants on properties that have been impacted by hazardous materials or become liable for cleanup of inventory properties that have been contaminated by hazardous materials, the conduct and documentation of due diligence is essential. In order to trigger lender liability protection requires that due diligence must be conducted in all real estate transactions.

For Single Family Housing programs administered under RD HB-1-3550, the acceptable evidence of due diligence is the most current version of the American Society for Testing and Materials (ASTM) ASTM E-1528-00 “Standard Practice for Environmental Site Assessments: Transaction Screen Questionnaire” (TSQ). The TSQ is to be completed and filed prior to all foreclosure actions. During loan making, if the loan official has cause to suspect that the site has the potential to be impacted by hazardous materials the loan official will initiate and document due diligence by completing the TSQ. Information on the condition of a site may be obtained by an inspection of the specific site, observation of uses existent on adjacent sites, conversations with current users of the site, review of property records and use of Internet resources. When completion of the TSQ form indicates a potential for contamination of the site the preparer will contact the State Environmental Coordinator (SEC) for further instructions and guidance if the level of site analysis needs to be elevated to a Phase I Environmental Site Assessment (ESA).

The TSQ is essentially a set of questions that guide the preparer through the process of inquiry into current and present land use of the site and adjacent properties to determine the potential for contamination. The “Standard Practice” provides a set of instructions for use of the TSQ form.

ASTM copyrights both the “Standard Practice” and the TSQ form that was developed in conformance with the Standard Practice. Rural Development has paid ASTM a fee for the right to copy and redistribute these documents for Agency use only. State Environmental Coordinators and Program Directors should take note that this copy and redistribution right extends to all Rural Development programs, therefore, the form may be used under any Rural Development program, should the need arise. Copies of the new Standard Practice and the form are attached and older versions should be discarded.

Agency employees read the Standard Practice prior to completing the TSQ form. Questions should be referred to your State Environmental Coordinator or you may contact Linda Rodgers, Technical Support Branch Chief at (202) 720-9647 or Baxter Hill, Senior Architect at (202) 720-1499, Program Support Staff, Rural Housing Service.

Attachment

TRANSACTION SCREEN QUESTIONNAIRE

Extracted, with permission, from E-1528-00 Standards Practice for Environmental Site Assessments: Transaction Screen Process, copyright American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

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 multi-family *property* containing both residential and commercial uses, the *preparer* does not 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.

DESCRIPTION OF SITE: Address:

CASE FILE: Name, case number if available, and whether applicant, borrower, or inventory property:

<u>Question</u>	<u>Owner</u>			<u>Occupants(If Applicable)</u>			<u>Observed During Site Visit</u>	
	Yes	No	Unk	Yes	No	Unk	Yes	No
1a. Is the <i>property</i> used for an industrial use?	Yes	No	Unk	Yes	No	Unk	Yes	No
1b. Is any <i>adjoining property</i> used for an industrial use?	Yes	No	Unk	Yes	No	Unk	Yes	No
2a. Did you observe evidence or do you have any prior knowledge that the <i>property</i> has been used for an industrial use in the past?	Yes	No	Unk	Yes	No	Unk	Yes	No
2b. Did you observe evidence or do you have any prior knowledge that any <i>adjoining property</i> has been used for an industrial use in the past?	Yes	No	Unk	Yes	No	Unk	Yes	No
3a. Is the <i>property</i> used as a gasoline station, motor repair facility, commercial printing facility, dry cleaners, photo developing laboratory, junkyard or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility (if applicable, identify which)?	Yes	No	Unk	Yes	No	Unk	Yes	No
3b. Is any <i>adjoining property</i> used as a gasoline station, motor repair facility, commercial printing facility, dry cleaners, photo developing laboratory, junkyard or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility (if applicable, identify which)?	Yes	No	Unk	Yes	No	Unk	Yes	No

<u>Question</u>	<u>Owner</u>			<u>Occupants(If Applicable)</u>			<u>Observed During Visit</u>	
	Yes	No	Unk	Yes	No	Unk	Yes	No
4a. Did you observe evidence or do you have any prior knowledge that the <i>property</i> has been used as a gasoline station, motor repair facility, commercial printing facility, dry cleaners, photo developing laboratory, junkyard or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility (if applicable, identify which)?	Yes	No	Unk	Yes	No	Unk	Yes	No
4b. Did you observe evidence or do you have any prior knowledge that any <i>adjoining property</i> been used as a gasoline station, motor repair facility, commercial printing facility, dry cleaners, photo developing laboratory, junkyard or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility (if applicable, identify which)?	Yes	No	Unk	Yes	No	Unk	Yes	No
5a. Are there currently any damaged or discarded automotive or industrial batteries, pesticides, paints, or other chemicals in individual containers of greater than 5 gallons (19 L) in volume or fifty gallons (190 L) in the aggregate, stored on or used at the <i>property</i> or at the facility?	Yes	No	Unk	Yes	No	Unk	Yes	No
5b. Did you observe evidence or do you have any prior knowledge that there have been previously any damaged or discarded automotive or industrial batteries, or pesticides, paints, or other chemicals in individual containers of greater than 5 gallons (19 L) in volume or fifty gallons (190 L) in the aggregate, stored on or used at the <i>property</i> or at the facility?	Yes	No	Unk	Yes	No	Unk	Yes	No
6a. Are there currently any industrial <i>drums</i> (typically 55 gallons (208 L)) or sacks of chemicals located on the property or at the facility?	Yes	No	Unk	Yes	No	Unk	Yes	No
6b. Did you observe evidence or do you have any prior knowledge that there have been previously any industrial <i>drums</i> (typically 55 gallons (208 L)) or sacks of chemicals located on the property or at the facility?	Yes	No	Unk	Yes	No	Unk	Yes	No
7a. Did you observe evidence or do you have any prior knowledge that <i>fill dirt</i> has been brought onto the property that originated from a contaminated site?	Yes	No	Unk	Yes	No	Unk	Yes	No

<u>Question</u>	<u>Owner</u>			<u>Occupants(If Applicable)</u>			<u>Observed During Visit</u>	
	Yes	No	Unk	Yes	No	Unk	Yes	No
7b. Did you observe evidence or do you have any prior knowledge that <i>fill dirt</i> has been brought onto the property that is of an unknown origin?	Yes	No	Unk	Yes	No	Unk	Yes	No
8a. Are there currently any <i>pits, ponds, or lagoons</i> located on the <i>property</i> in connection with waste treatment or waste disposal?	Yes	No	Unk	Yes	No	Unk	Yes	No
8b. Did you observe evidence or do you have any prior knowledge that there have been previously any <i>pits, ponds, or lagoons</i> located on the <i>property</i> in connection with waste treatment or waste disposal?	Yes	No	Unk	Yes	No	Unk	Yes	No
9a. Is there currently any stained soil on the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
9b. Did you observe evidence or do you have any prior knowledge that there has been previously, any stained soil on the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
10a. Are there currently any registered or unregistered storage tanks (above or underground) located on the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
10b. Did you observe evidence or do you have any prior knowledge that there have been previously, any registered or unregistered storage tanks (above or underground) located on the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
11a. Are there currently any vent pipes, fill pipes, or access ways indicating a fill pipe protruding from the ground on the <i>property</i> or adjacent to any structure located on the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
11b. Did you observe evidence or do you have any prior knowledge that there have been previously, any vent pipes, fill pipes, or access ways indicating a fill pipe protruding from the ground on the <i>property</i> or adjacent to any structure located on the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
12a. Is there currently evidence of leaks, spills or staining by substances other than water, or foul odors, associated with any flooring, drains, walls, ceilings, or exposed grounds on the property?	Yes	No	Unk	Yes	No	Unk	Yes	No

<u>Question</u>	<u>Owner</u>			<u>Occupants(If Applicable)</u>			<u>Observed During Visit</u>	
	Yes	No	Unk	Yes	No	Unk	Yes	No
12b. Did you observe evidence or do you have any prior knowledge that there have been previously any leaks, spills, or staining by substances other than water, or foul odors, associated with any flooring drains, walls, ceilings or exposed grounds on the property?	Yes	No	Unk	Yes	No	Unk	Yes	No
13a. If the property is served by a private well or non-public water system, is there evidence or do you have prior knowledge that contaminants have been identified in the well or system that exceed guidelines applicable to the water system?	Yes	No	Unk	Yes	No	Unk	Yes	No
13b. If the property is served by a private well or non-public water system, is there evidence or do you have prior knowledge that the well has been designated as contaminated by any government environmental/ health agency?	Yes	No	Unk	Yes	No	Unk	Yes	No
14. Does the <i>owner</i> or <i>occupant</i> of the <i>property</i> have any knowledge of <i>environmental liens</i> or governmental notification relating to past or recurrent violations of environmental laws with respect to the <i>property</i> or any facility located on the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
15a. Has the <i>owner</i> or <i>occupant</i> of the <i>property</i> been informed of the past existence of <i>hazardous substances</i> or <i>petroleum products</i> with respect to the <i>property</i> or any facility located on the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
15b. Has the <i>owner</i> or <i>occupant</i> of the <i>property</i> been informed of the current existence of <i>hazardous substances</i> or <i>petroleum products</i> with respect to the <i>property</i> or any facility located on the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
15c. Has the <i>owner</i> or <i>occupant</i> of the <i>property</i> been informed of the past existence of environmental violations with respect to the <i>property</i> or any facility located on the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
15d. Has the <i>owner</i> or <i>occupant</i> of the <i>property</i> been informed of the current existence of environmental violations with respect to the <i>property</i> or any facility located on the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No

<u>Question</u>	<u>Owner</u>			<u>Occupants(If Applicable)</u>			<u>Observed During Visit</u>	
	Yes	No	Unk	Yes	No	Unk	Yes	No
16. Does the <i>owner</i> or <i>occupant</i> of the <i>property</i> have any knowledge of any <i>environmental site assessment</i> of the <i>property</i> or facility that indicated the presence of <i>hazardous substances</i> or <i>petroleum products</i> on, or contamination of, the <i>property</i> or recommended further assessment of the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
17. Does the <i>owner</i> or <i>occupant</i> of the <i>property</i> know of any past, threatened, or pending lawsuits or administrative proceedings concerning a release or threatened release of any <i>hazardous substance</i> or <i>petroleum products</i> involving the <i>property</i> by any owner or occupant of the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
18a. Does the <i>property</i> discharge waste water (not including sanitary waste or storm water) onto or adjacent to the <i>property</i> and/or into a storm water system?	Yes	No	Unk	Yes	No	Unk	Yes	No
18b. Does the <i>property</i> discharge waste water (not including sanitary waste or storm water) onto or adjacent to the <i>property</i> and/or into a sanitary sewer system?	Yes	No	Unk	Yes	No	Unk	Yes	No
19. Did you observe evidence or do you have any prior knowledge that any <i>hazardous substances</i> or <i>petroleum products</i> , unidentified waste materials, tires, automotive or industrial batteries, or any other waste materials have been dumped above grade, buried and/or burned on the <i>property</i> ?	Yes	No	Unk	Yes	No	Unk	Yes	No
20. Is there a transformer, capacitor, or any hydraulic equipment for which there are any records indicating the presence of PCBs?	Yes	No	Unk	Yes	No	Unk	Yes	No

GOVERNMENT RECORDS/HISTORICAL SOURCES INQUIRY

21. Do any of the following Federal government record systems list the property or any property within the search distance noted below:

	Approximate Minimum Search Distance, miles (kilometers)		
Federal NPL site list	1.0 (1.6)	Yes	No
Federal CERCLIS List	0.5 (0.8)	Yes	No
Federal CERCLIS NFRAP site list	Property and adjoining properties	Yes	No
Federal RCRA CORRACTS facilities list	1.0 (1.6)	Yes	No
Federal RCRA non-CORRACTS TSD facilities list	0.5 (0.8)	Yes	No
Federal RCRA generators list	Property and adjoining properties	Yes	No
Federal ERNS list	Property only	Yes	No

22. Do any of the following state record systems list the property or any property within the search distance noted below:

	Approximate Minimum Search Distance, miles (kilometers)		
State lists of hazardous waste sites identified for investigation or remediation:			
State – Equivalent NPL	1.0 (1.6)	Yes	No
State – Equivalent CERCLIS	0.5 (0.8)	Yes	No
State landfill and/or solid waste disposal site lists	0.5 (0.8)	Yes	No
State leaking UST lists	0.5 (0.8)	Yes	No
State registered UST lists	Property and adjoining properties	Yes	No

23. Based upon a review of fire insurance maps 10.3.1.3 or consultation with the local fire department serving the *property*, all as specified in the guide, are any buildings or other improvements on the *property* or on an *adjoining property* identified as having been used for an industrial use or uses likely to lead to contamination of the *property*? Yes No Unk

The preparer of the *Transaction Screen Questionnaire* must complete and sign the following. (For definition of "preparer" and "user," see 5.3 or 3.3.28.)

THIS QUESTIONNAIRE WAS COMPLETED BY:

Name _____
Title _____
Firm _____
Address _____

Phone number _____

Date _____

Preparer's relationship to the site _____

Preparer's relationship to the user (for example, principle, employee, agent, consultant) _____

User's relationship to the site (for example, owner, prospective purchaser, lender, etc.) _____

IF THE PREPARER IS DIFFERENT THAN THE USER , COMPLETE THE FOLLOWING:

Name of User _____

User's address _____

User's phone number _____

COPIES OF THE COMPLETED QUESTIONNAIRE HAVE BEEN FILED AT:

COPIES OF THE COMPLETED QUESTIONNAIRE HAVE BEEN MAILED OR DELIVERED TO:

PREPARER REPRESENTS THAT TO THE BEST OF THE PREPARER'S KNOWLEDGE, THE ABOVE STATEMENTS AND FACTS ARE TRUE AND CORRECT AND TO THE BEST OF THE PREPARER'S ACTUAL KNOWLEDGE NO MATERIAL FACTS HAVE BEEN SUPPRESSED OR MISSTATED.

Signature

Date

Reviewer's Signature (when appropriate)

Date

TSQ UPDATED:

Preparer's signature

Date