



KAFB 92
DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE MATERIEL COMMAND
WRIGHT-PATTERSON AIR FORCE BASE, OHIO

ENTERED

24 DEC 1992

FROM: HQ AFMC/CEP
4225 Logistics Ave Ste 7
Wright-Patterson AFB OH 45433-5745

SUBJ: Revised Guidance for Conducting ~~Environmental Baseline and Cross~~

TO: See Distribution

Forwarded for your information and action is SAF/MIIR Memorandum containing subject guidance update. This is a coordinated CEP/CEV letter. Points of contact are Mr. Rich Jenkins or Mr. Max Scheurman for CEP, DSN 787-3861 and Ms. Lynn Engleman for CEV, DSN 787-5878.

FOR THE COMMANDER

ROBERT E. DANT, Lt Col, USAF
Acting Director of Programs
DCS/Civil Engineering

1 Atch
SAF/MIIR Memo, 03 Dec 92

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DEPARTMENT OF THE AIR FORCE
WASHINGTON DC



OFFICE OF THE ASSISTANT SECRETARY

DEC 03 1992

SAF/MIIR
Building 16, Bolling AFB
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MEMORANDUM FOR HQ ACC/DE (Mr. Haluson)
HQ AFDW/CEPR
HQ AFMC/CEPM
HQ AFRES/CEPR
HQ AFSPACECOM/CEPR
HQ ATC/DEPE
HQ AU/CERR
HQ AMC/CEPE
NGB/CE (Ms. Parker)
ANGRC/CEPR (Ms. Frender)
HQ PACAF/DEPRE
HQ ACC/CEPE
HQ USAFA/CEPE

SUBJECT: Revised Guidance for Conducting Environmental Baseline
and Close-Out Surveys - INFORMATION MEMORANDUM

Reference is made to SAF/MIIR memorandum, April 20, 1992, Implementation of Guidance for Conducting Environmental and Close-Out Surveys, which mandated that requests for authority for all real estate actions (except for closure installations) must include either an Environmental Baseline (EBS) Report Survey or a Phase II Survey Report. (AFBDA/BD, separately, issued policy and guidance on the environmental process to determine suitability to transfer real property at closing installations.)

Atch 1 provides revised guidance for conducting environmental baseline and close-out surveys for all real estate transactions at non-closure installations. Request immediate implementation.

Atch 2, provided for information, addresses SAF/MIQ revised guidance for conducting environmental baseline and close-out surveys for real estate transactions at closing installations. (Note that much of this guidance is identical to that at Atch 1 for non-closure installations.)


A. R. JONKERS
Director

Air Force Real Estate Agency
Deputy Assistant Secretary of the Air Force
(Installations)

2 Attachments

1. Guidance for Non-closure Installations
2. Guidance for Closing Installations

cc: SAF/MIQ w/Atch
HQ USAFE/CEP w/Atch
AFLSA/JACE (Mr. Forcier)
w/Atch
AF/CEV w/Atch
AFBDA/BD w/Atch
HQ USACE/CERE-ZA w/Atch

Air Force Guidance for
Conducting Environmental Baseline and Close-Out Surveys
In Real Estate Transactions

I. PURPOSE

This policy guidance establishes the requirement for the Air Force to conduct an Environmental Baseline Survey of the condition of real property to be acquired, transferred, leased, sold, or otherwise conveyed under the provisions of AFR 87-1, 87-3, 87-4, 78-22, or other authority, and conduct an Environmental Close-out Survey of property at the termination of any lease. The results of such a survey will:

A. Document the nature, magnitude, and extent of any environmental contamination of property or interests in property considered for acquisition or transfer, lease, sale, or other disposition.

B. Define potential environmental contamination liabilities associated with the subject real property transaction.

C. Develop sufficient information to assess the health and safety risks, and ensure adequate protection of human health and the environment related to the subject real property transaction.

D. Determine possible effects on property valuation from any contamination discovered.

E. Provide the basis for notice when required under Section 120(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9620(h)(1), of type, quantity, and time frame of any storage, release or disposal of a hazardous substance on the property.

II. APPLICABILITY

A. This guidance shall apply to all Air Force controlled real property located within the United States, its territories, or possessions, and property or interests in property identified for acquisition or lease, sale or transfer from, to, or with a party other than the Air Force except those specifically exempted in paragraph B of this section.

B. The requirement to do an environmental baseline survey shall not apply to the following transactions:

1. Renewal of a leasehold, if no change in leasehold premises or permitted use will occur, and the current permitted use or uses under the leasehold do not result in environmentally significant consequences;

2. Acquisition of Explosive Quantity Distance easements.

III. TERMS

For purposes of this Guidance, the following definitions apply:

A. Acquisition: Obtain, use, or control real property or an interest in real property by purchase, condemnation, donation, exchange, leasing, revestment, and/or recapture.

B. Air Force proponent: Air Force major command, installation, other component, or other agent designated to act on behalf of the Air Force, responsible for initiating or carrying out the proposed real property transaction.

C. Disposal: Any authorized method of divesting the Air Force of control of and responsibility for real property.

D. Hazardous substance: This term shall have the meaning provided in CERCLA, 42 U.S.C. § 9601(14), except that for the purpose of this guidance the term shall specifically include petroleum, petroleum products, oil, and lubricants (POL).

E. Real Property: Land; present possessory interest in land; surface water and ground water within boundaries of such land; structures, fixtures and other improvements on land; other interests or future interests in land.

F. Release: This term shall have the meaning provided in CERCLA, 42 U.S.C. § 9601(22).

G. Storage: The holding of hazardous substances for a temporary period prior to the hazardous substances being either used, treated, transported, or disposed of.

H. Transfer: Permits to other government agencies (including the Air National Guard), donations, land exchanges, transfers of Federal Government property accountability, easements, leases, or licenses.

IV. PROCEDURE FOR CONDUCTING AN ENVIRONMENTAL BASELINE SURVEY (EBS)

Upon identification of a proposed real estate transaction for which an EBS is required, the Air Force proponent will request the appropriate installation environmental function to conduct an EBS. The Air Force proponent will provide appropriate funding for the EBS.

A. Phase I of the EBS will determine the potential for present and past site contamination, including the type and quantity, if any, of hazardous substances and time or times when

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storage, release into the environment or structures, or disposal of such hazardous substances took place on the property, to the extent such information is available for the subject real property transaction. At a minimum, this will include a comprehensive records search and site inspection. Therefore, the following actions must be taken:

(1) Review all existing or completed surveys or inspection reports regarding asbestos, PCBs, Underground Storage Tanks and piping systems, Solid Waste Management Units, ECAMP surveys, and environmental engineer shop surveys.

(2) Review all Installation Restoration Program studies, or other documentation produced in accordance with procedures being carried out at the property under CERCLA or the Solid Waste Disposal Act.

(3) Review any applicable regulatory agency reports, notices of violation or noncompliance, or other similar records.

(4) Review current and/or discontinued permits pertaining to environmentally regulated activity.

(5) Review all title, deed, other real property records, or other available documents to ascertain prior uses of the real property which may have involved hazardous substances or otherwise contaminated the property.

(6) Conduct visual inspections to determine or confirm the presence of an environmentally hazardous condition (unusual odors, stained soils, stressed vegetation, leachate seeps, land features related to human activity, etc.) or wetlands.

B. At the conclusion of Phase I, a survey report will be prepared by the installation environmental function. The report will contain a statement of findings as to the environmental condition of the property and a certification of the survey results by the Base Civil Engineer or his/her appropriate equivalent. Survey reports shall always be made a part of the real estate transaction record. The format for this report is provided in Attachment 1.

C. For real property acquisition or transfer, lease, sale or other disposition initiated by non-Air Force parties, the Air Force proponent in the transaction will assure completion of an EBS and should participate actively when a non-Air Force party conducts an EBS. The Air Force will conduct the EBS if the non-Air Force party to the transaction is either unwilling or unable to conduct an EBS, and the Air Force proponent determines that the transaction would be in the best interest of the Air Force.

D. When the survey report indicates that no hazardous substance storage, release into the environment or structures, or

disposal took place on the subject property, or that the occurrence of such storage, release, or disposal is not considered probable, no further action is necessary.

V. PROCEDURES FOR TRANSACTIONS INVOLVING PROPERTY IDENTIFIED AS POTENTIALLY CONTAMINATED

If the existence of contamination or potential for a release of hazardous substances into the environment or structures of the subject real property is indicated in the survey report, and the subject property (if Air Force controlled) has not yet been further characterized pursuant to the Installation Restoration Program (IRP), Phase II of the EBS consisting of the following procedures must be followed before the proposed transaction may occur:

A. Conduct additional investigation as appropriate, to include surface, subsurface, and aquifer sampling consistent with the requirements of the Air Force IRP to (1) identify contaminants, or sources of release of contaminants, in the structures or soil; (2) ascertain or confirm the presence of groundwater contamination, and (3) determine the type, concentration and extent of the contamination.

B. Prepare an addendum to the Phase I survey report that contains the results of the Phase II investigation, and a determination whether any contamination identified is above minimum concentration levels or other relevant and appropriate standards.

C. Identify the subject property as contaminated to the appropriate command channels for determination as to whether the property must be included under the IRP, or is subject to an existing Federal or state regulatory agreement for property itself or the installation.

Based upon the results of such additional investigation, the Air Force proponent may go forward with the transaction, or elect to exclude contaminated portions of the subject property from the acquisition or transfer, lease, sale, or other disposition. Any deed transaction involving Air Force-controlled property on which any hazardous substance was stored for one year or more, known to have been released, or disposed of is subject to the requirements of Section 120(h)(3) of CERCLA.

VI. SPECIAL PROVISIONS FOR OUT-LEASING

A. If property required to undergo an EBS has been identified as contaminated, but the appropriate remedial action has not yet been taken, such property may be considered for out-leasing provided the following additional actions are taken:

(1) The results of all sampling, investigations and all other available data, including any site or remedial investigations (SI or RI), must be analyzed to determine what, if any,

health, occupational, or safety risks are associated with the contemplated use of the property due to the presence of the contamination; and,

(2) Analyze measures that can or should be adopted or restrictive provisions that should be included in the lease to (a) mitigate the effects of the contamination to reduce any environmental, health, occupational or safety risks associated with the use of the property to legally acceptable levels, and (b) prevent interference with ongoing IRP activities.

B. Upon termination of any out-lease granted pursuant to section VI.A, the Air Force proponent and the lessee (and its sublessees, if applicable) will jointly conduct an Environmental Close-out Survey (ECS) to ascertain any changes in the environmental condition of the subject property from that documented in the EBS. If the lessee does not participate for any reason, the Air Force proponent will still conduct the ECS and provide a copy of the findings to the lessee. The procedures shall be the same as those for an EBS, with the following additions, as appropriate:

(1) Review Federal or State audits or inspections conducted during the term of the lease.

(2) Review any and all documentation submitted by lessee (or sublessees) to Federal, State, and local environmental regulatory agencies.

(3) Review any occupational, health, or safety incident report involving the property filed during the term of the lease.

(4) Document all hazardous substances used or stored at the property during the term of the lease.

(5) Document all hazardous waste generated on the property during the term of the lease, and its disposition.


The Air Force proponent will then prepare an Environmental Condition Report for the property, to be signed by the authorized agent of the lessee (or sublessee) and the Air Force proponent or his delegate. If the Environmental Condition Report indicates that contamination of the property may have occurred in connection with the lessee's (or sublessee's) tenancy, the procedures of Section V of this policy guidance must then be completed. Any follow-on action shall be governed by the requirements of the lease and applicable Federal and State law.

VII. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

Air Force proponents will continue to comply with all provisions of other Federal, State, Department of Defense, Air Force, or local laws and regulations applicable to the subject transaction.

VIII. EFFECTIVE DATE

This guidance becomes effective on the date signed and remains in effect until superceded by further guidance or applicable Federal, State, or local law or regulation.



GARY D. VEST
Deputy Assistant Secretary of the Air Force
(Environment, Safety and Occupational Health)

NOV 17 1992
DATE

ATTACHMENT 1

FORMAT FOR THE ENVIRONMENTAL SURVEY REPORT

I. INTRODUCTION

- A. Purpose of Survey
- B. Boundaries of Parcel and Scope of Survey (include map)

II. SURVEY METHODOLOGY

- A. List and Description of Documents Reviewed
- B. Inspections of Property Conducted

III. FINDINGS

- A. Description of the Site History and Current Use
- B. Description of the Site Environmental Setting
 - 1. Location of nearby releases or contamination
 - 2. Location of sewer lines, runoff patterns
- C. Media Addressed
 - 1. Hazardous materials use and storage areas
 - 2. Solid and hazardous waste disposal
 - 3. PCB-containing electrical equipment
 - 4. Above ground/underground tanks and pipelines
 - 5. Soil contamination
 - 6. Groundwater
 - 7. Asbestos-containing buildings
 - 8. Surface water and wetlands
 - 9. Wastewater treatment and discharge
 - 10. Other issues (e.g., radon, lead-based paints, etc.)
- D. Applicable Regulatory Compliance Issues
 - 1. List of compliance issues
 - 2. Description of corrective actions
 - 3. Estimates for various alternatives
- E. Conclusions
- F. Recommendations

V. ATTACHMENTS

- A. Site Photographs

AIR FORCE POLICY AND GUIDANCE ON THE ENVIRONMENTAL PROCESS
TO DETERMINE SUITABILITY TO TRANSFER OR LEASE
PROPERTY AT CLOSING INSTALLATIONS

I. PURPOSE

This policy and guidance establishes the environmental investigation and documentation process the Air Force will follow in reaching determinations that parcels of real property at closing installations are environmentally suitable for final disposition by deed, or appropriate to lease. Completion of this process will:

- A. Ensure protection of human health and the environment.
- B. Ensure compliance with the National Environmental Policy Act (NEPA).
- C. Ensure compliance with the Community Environmental Response Facilitation Act.
- D. Ensure compliance with Executive Order 11990 (Wetlands).
- E. Develop the necessary information in order to give the covenants required by CERCLA Section 120(h)(3) in any deed for property conveyed by the Air Force.
- F. Provide the necessary information to determine if any health or safety risks or threats to the environment may be associated with the subsequent use or occupancy of the property by lease so that necessary reuse restrictions can be put into the lease instrument, or mitigations can be implemented.
- G. Ensure that transfer of parcels of real property does not interfere with remedial actions being conducted on installations where such parcels are located.

II. APPLICABILITY

- A. This policy and guidance shall apply to all real estate transactions affecting Air Force controlled real property within the United States to be disposed of by deed or lease as a result of Public Law 100-526 (the Base Closure and Realignment Act of 1988), Public Law 101-510 (the Defense Base Closure and Realignment Act of 1990), or any subsequent base closure laws passed by Congress, except those transactions specifically set forth in paragraph B. of this section. It shall apply to properties identified for lease, sale, final disposition by deed, or other transfer to a party other than a component of the Air Force.

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- B. The requirement to determine the environmental suitability of a parcel of real property for transfer or lease shall not apply to the following transactions:
1. Renewal of a leasehold, if no change in leasehold premises or permitted use will occur, and the current permitted use or uses under the leasehold have no environmentally significant consequences;

III. TERMS

- A. Proponent: The Air Force Base Disposal Agency (AFBDA), its subordinate field offices, and components of the major Air Force commands acting in conjunction with the AFBDA at installations where the active mission has not yet been realigned or retired.
- B. Disposal: This term shall have the same meaning as contained in the Air Force Guidance for Conducting Environmental Baseline and Close-Out Surveys in Real Estate Transactions (EBS Guidance).
- C. Environmental Impact Analysis Process (EIAP): The procedures contained in Air Force Regulation 19-2 which implement the National Environmental Policy Act (NEPA).
- D. Hazardous Substance: This term shall have the meaning provided in CERCLA, 42 U.S.C. § 9601(14), except that for the purpose of this guidance, the term shall specifically include petroleum, petroleum products, oils, and lubricants.
- E. Installation(s): This term shall include those Air Force installations, parts of installations, or other property of the Air Force to be disposed of as a result of Public Laws 100-526 and 101-510, or other disposal authority.
- F. Real Property: This term shall have the same meaning as contained in the EBS Guidance.
- G. Release: The term shall have the meaning provided in CERCLA, 42 U.S.C. § 9601(22).
- H. Storage: The holding of hazardous substances for a temporary period prior to the hazardous substances being either used, treated, stored, or disposed of.
- I. Transfer: This term shall have the same meaning as contained in the EBS Guidance.
- J. Regulatory agency: This term shall mean any Federal, State, or local regulatory agency exercising oversight authority in the area of environmental compliance within a particular jurisdiction pursuant to law or regulation.

IV. PROCEDURES FOR DETERMINING THE ENVIRONMENTAL SUITABILITY OF PROPERTY TO BE DISPOSED OF BY DEED

- A. Environmental Impact Analysis Process (EIAP): The Disposal and Reuse Environmental Impact Statement (EIS) for a closing installation is the primary EIAP analysis the Air Force will use to make determinations under this policy for final property dispositions by deed. The Air Force will not make final disposition by deed of any properties at closing installations until the EIS is completed and an executed Record of Decision is issued.
- B. Environmental Baseline Survey (EBS): An EBS for the property to be conveyed will be conducted in accordance with guidance issued by SAF/MIQ (Attachment 1) to document, where applicable, the presence, nature and extent of any hazardous substance that may require remedial action to protect human health and the environment prior to a disposition of the property by deed.
- C. Wetlands Determination: A wetlands determination will only be completed if the proposed action will impact wetlands and a determination is required to comply with Executive Order 11990.

V. ISSUANCE OF FINDINGS (FOST)

Following completion of the foregoing processes, the Deputy Assistant Secretary of the Air Force for Environment, Safety, and Occupational Health (or designee) will issue a Finding of Suitability to Transfer (FOST) if supported by the applicable environmental analyses, and one of the following conditions is determined to exist for the subject property:

- A. An EBS report has documented that no hazardous substances were stored for one year or more, known to have been released, or disposed of on the parcel, hazardous substance notice requirements do not apply, and the appropriate regulatory agency has concurred in the finding that the property is historically uncontaminated;
- B. An EBS report documents that hazardous substances have been stored for one year or more, released or disposed of on the property, and hazardous substance notice requirements must be complied with, but the parcel does not require a response or remedial action to protect human health and the environment;
- C. An environmental baseline survey report documents that hazardous substances are known to have been released or disposed of on the property, but all actions necessary

to protect human health and the environment with respect to any hazardous substances remaining on the property have already been taken.

Properties shall be determined unsuitable for final disposition by deed if hazardous substances have been released or disposed of on the property, some level of remedial action is legally required, and all actions necessary to protect human health and the environment with respect to any hazardous substances remaining on the property have not yet been taken.

If the property to be deeded is part of a facility named on the National Priorities List (NPL), no FOST may be issued based on a finding under paragraph A unless the Administrator of the U.S. EPA or a designee has concurred in the determination that no hazardous substances and no petroleum products and their derivatives were stored for one year or more, known to have been released, or disposed of. In the case of property not part of a facility named to the NPL, officials of the State regulatory agency must so concur. Such concurrence must be obtained in accordance with the procedures in Section X of this guidance.

VI. PROCEDURES FOR DETERMINING THE ENVIRONMENTAL SUITABILITY OF PROPERTY TO BE LEASED

- A. Environmental Impact Analysis Process (EIAP): Upon identification of a proposal to lease for which the EIAP has not been conducted, the proponent will contact the appropriate Environmental Planning Function (EPF) to initiate the EIAP to support the transaction. The proponent shall provide the EPF with a detailed description of the proposed action and alternatives (to include present as well as future reuse plans, the need date for the transfer, and environmental permits which the lessee may need to conduct its activities).

For those proposed transfers where a Disposal and Reuse EIS with or without a Record of Decision (ROD) have been completed, the Air Force will compare all information submitted describing the proposed use and the EBS report to determine whether the proposed transfer and reuse activities are within the scope of the EIS and the ROD. If so, no further EIAP is required and a statement to this effect will be included in the Finding of Suitability to Lease (FOSL). If not, an EIAP will be performed which, at a minimum, will consist of an Environmental Assessment (EA). If it is determined that an EIS is required, the proposed action will normally be integrated into the ongoing Disposal and Reuse EIS insofar as is practicable. Otherwise, a separate EIS or a supplement to a previous EIS may be performed.

- B. Environmental Baseline Survey (EBS): An EBS for the property to be conveyed will be conducted in accordance

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with guidance issued by SAF/MIQ (Attachment 1) to document, where applicable, the history of any storage, release, or disposal, or the current presence, nature, and extent, of any hazardous substance that may require remedial action to protect human health and the environment prior to a disposition of the property.

VII. ISSUANCE OF FINDINGS (FOSL)

Following completion of the foregoing processes, the Deputy Assistant Secretary of the Air Force for Environment, Safety, and Occupational Health (SAF/MIQ), or designee, will issue a Finding of Suitability to Lease (FOSL) if supported by the applicable environmental analyses, and one of the following conditions is determined to exist for the subject property:

- A. An EBS report has documented that no hazardous substances were stored for one year or more, known to have been released, or disposed of on the parcel, and hazardous substance notice requirements do not apply;
- B. An EBS report documents that hazardous substances have been stored for one year or more, released, or disposed of on the property, and hazardous substance notice requirements must be complied with, but the parcel does not require a response or remedial action to protect human health and the environment;
- C. Even though the parcel contains some level of contamination by hazardous substances, it can be reused pursuant to the proposed lease without risk to human health or the environment, or interference with the ongoing Installation Restoration Program (IRP), with or without specified reuse restrictions in the lease.

Based on the documentation contained in the EBS, EIAP, and wetlands determination (if applicable), the Air Force will determine what, if any, restrictions are necessary to protect human health and the environment, and limit Air Force liability during occupation under the lease, and such restrictions shall be specifically stated in the FOSL for incorporation in the lease instrument. The EBS report will be provided to the lessee prior to execution of a lease.

VIII. COORDINATION AND APPROVAL PROCEDURES

The completed EA/FONSI or EIS, EBS Report, and wetlands determination (if applicable) will be submitted by the EPF to the responsible AFBDA Program Manager, who will review the information and conclusions contained in the documentation and either prepare a FOST or FOSL or draft a recommendation so opposing. The AFBDA Program Manager will then staff the documents through appropriate

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Air Staff and Secretary of Air Force offices for review and comment, then to SAF/MIQ for review, and if appropriate, approval and signature.

IX. NOTICE

A. Deed Transactions

1. The public will be notified of a proposed disposition by deed through publication of such notice in local newspapers. Such notice will occur no later than thirty (30) days before the FOST document is executed.
2. The regulatory agencies will be notified in writing of a proposed disposition by deed when identified by the Air Force. The EBS Report and notification regarding the signing of the FOST will then be mailed to the regulatory agencies no later than thirty (30) days prior to the anticipated signing of the FOST. Additional supporting documentation will be made available on request. The Air Force will address relevant comments from regulatory officials or other appropriate entities received within this thirty (30) day period. Unresolved comments will be appended to the FOST document. The executed FOST will be made a part of the Administrative Record of the Installation Restoration Program at the installation and the NEPA decisional document.

B. Lease Transactions

1. Appropriate regulatory agencies will be notified of a proposed lease transaction once initial Air Force screening for mission impact has determined that the transaction can be accommodated at the installation. A copy of such notice shall also be sent to the Governor, or designee, of the State in which the property is located. Such notice shall include the length of the lease, the name of the lessee, and a description of the permitted uses of the leased premises.
2. Relevant comments received from regulatory agencies during the time from notice to execution of a lease will be addressed in the FOST. Notification to the regulatory agencies of execution of a lease or sublease shall be made within fourteen days (14) after the transaction.

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X. PROCEDURES FOR OBTAINING CONCURRENCE REGARDING HISTORICALLY UNCONTAMINATED PROPERTY PRIOR TO ISSUANCE OF A DEED

If an EBS report has documented that no hazardous substances were stored for one year or more, known to have been released, or disposed of on the parcel and the hazardous substance notice requirements of Section 120(h)(1) of CERCLA do not apply, property may not be found suitable for transfer by deed unless, in the case of property named to the NPL, the Administrator of U.S. EPA has concurred in such a finding. In the case of property not named to the NPL, concurrence of an appropriate official of the state (generally the head of the state's environmental regulatory agency) must be obtained.

- A. NPL Property: When the EBS report has concluded that the property has never been contaminated, the notice sent to the regulatory agencies under section IX.A.1 shall include a request for concurrence with such a determination within the thirty (30) day waiting period established prior to the signing of the FOST, or a statement in writing that the regulatory agency disagrees with the EBS report, the reasons, and the measures suggested to correct the inadequacies. If no response is received within the thirty (30) day period, the regulatory agency will be deemed to have concurred, and the notice provision shall so state.

- B. Non-NPL Property: When the EBS report has concluded that the property has never been contaminated, the notice provided to the state regulatory agencies under section IX.A.1 shall be sent ninety (90) days in advance of the proposed date of the deed transaction, and shall request concurrence with the conclusions of the EBS report or a statement in writing that the regulatory agency disagrees with the EBS report, the reasons, and the measures suggested to correct the inadequacies. If no response is received within the ninety (90) day period, the regulatory agency will be deemed to have concurred, and the notice provision shall so state.

XI. WAIVER


The requirement to comply with sections VI, VII, VIII, and IX.B.2 and 3 of this guidance may be waived by SAF/MIQ if and when completion of a FOST will prevent execution of a lease transaction by a required date and SAF/MIQ is satisfied by available information that human health and the environment will be protected.

11-17-92

XII. EFFECTIVE DATE

The policy and guidance becomes effective on the date signed and remains in effect until superseded by further guidance or Air Force Regulation.

Date: NW 17 1992



GARY D. VEST
Deputy Assistant Secretary of the Air Force
(Environment, Safety and Occupational Health)

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EBS Guidance