



Designation: D 5746 – 98

## Standard Classification of Environmental Condition of Property Area Types for Defense Base Closure and Realignment Facilities<sup>1</sup>

This standard is issued under the fixed designation D 5746; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval. A superscript epsilon ( $\epsilon$ ) indicates an editorial change since the last revision or reapproval.

### 1. Scope

1.1 *Purpose*—The purpose of this classification is to define seven standard environmental condition of property area types for Department of Defense (DoD) real property at a closing military installation with respect to the requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 Section 120(h), as amended by the Community Environmental Response Facilitation Act (CERFA) of 1992, and Section 331 of the National Defense Authorization Act for Fiscal Year 1997. As such, this classification is intended to permit a DoD component to classify property into seven area types, in order to facilitate and support findings of suitability to transfer (FOSTs), findings of suitability to lease (FOSLs), and uncontaminated parcel determinations pursuant to the requirements of CERFA. *Users of this classification should note that it does not address (except where noted explicitly) requirements for appropriate and timely regulatory consultation or concurrence, or both, during the identification and use of these environmental condition of property area types.*

1.1.1 *Seven Recognized Standard Environmental Condition of Property Area Types*—The goal of this classification is to permit DoD components to classify properties on closing DoD installations in order to support determinations of which properties are suitable and unsuitable for transfer by lease or by deed. The term “standard environmental condition of property area type” refers to one of the seven area types defined in this classification. An identification of an area type on an environmental condition of property map means that a DoD component has conducted sufficient studies to make a determination of the recognized environmental conditions of installation real property or has complied with the identification requirements of uncontaminated property under CERFA, or both, and has categorized the property into one of the following seven area types:

1.1.1.1 *Standard Environmental Condition of Property Area Type 1*—An area or parcel of real property where no release, or disposal of hazardous substances or petroleum products or their derivatives has occurred (including no migration of these substances from adjacent properties).

1.1.1.2 *Standard Environmental Condition of Property Area Type 2*—An area or parcel of real property where only the release or disposal of petroleum products or their derivatives has occurred.

1.1.1.3 *Standard Environmental Condition of Property Area Type 3*—An area or parcel of real property where release, disposal, or migration, or some combination thereof, of hazardous substances has occurred, but at concentrations that do not require a removal or remedial action.

1.1.1.4 *Standard Environmental Condition of Property Area Type 4*—An area or parcel of real property where release, disposal, or migration, or some combination thereof, of hazardous substances has occurred, and all remedial actions necessary to protect human health and the environment have been taken.

1.1.1.5 *Standard Environmental Condition of Property Area Type 5*—An area or parcel of real property where release, disposal, or migration, or some combination thereof, of hazardous substances has occurred and removal or remedial actions, or both, are under way, but all required actions have not yet been taken.

1.1.1.6 *Standard Environmental Condition of Property Area Type 6*—An area or parcel of real property where release, disposal, or migration, or some combination thereof, of hazardous substances has occurred, but required response actions have not yet been initiated.

1.1.1.7 *Standard Environmental Condition of Property Area Type 7*—An area or parcel of real property that is unevaluated or requires additional evaluation.

1.1.2 *CERCLA Section 120(h) Requirements*—This classification of environmental condition of property area types is consistent with CERCLA § 120(h) requirements relating to the transfer of contaminated federal real property (42 USC 9601 and following). Areas classified as Area Types 1 through 4, as defined in this classification, are suitable, with respect to CERCLA § 120(h) requirements, for deed transfer to a non-federal recipient.

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1.1.3 *CERFA Requirements*—This classification of environmental condition of property area types can be used in conjunction with the reporting requirements of CERFA, which amended CERCLA (Public Law 102-426, 106 Statute 2174). As defined in this classification, areas classified as Type 1 areas are eligible for reporting as “uncontaminated property” under the provisions of CERFA. At installations listed on the national priorities list, Environmental Protection Agency (EPA) concurrence must be obtained for a parcel to be considered uncontaminated and therefore transferable under CERCLA § 120(h)(4). EPA has stated as a matter of policy that there may be instances in which it would be appropriate to concur with the military service that certain parcels can be identified as uncontaminated under CERCLA § 120(h)(4), although some limited quantity of hazardous substances or petroleum products have been stored, released, or disposed of on the parcel. If the information available indicates that the storage, release, or disposal was associated with activities that would not be expected to pose a threat to human health or the environment (for example, housing areas, petroleum-stained pavement areas, and areas having undergone routine application of pesticides), such parcels should be eligible for expeditious reuse.

1.1.4 *Petroleum Products*—Petroleum products and their derivatives are included within the scope of this classification. Under DoD policy, areas on which petroleum products and their derivatives have been released or disposed of may not be suitable for deed transfer until a response action has been completed.

1.2 *Objectives*—The objectives guiding the development of this classification are as follows: (1) to synthesize and put in writing a standard classification of environmental condition of property area types; (2) to facilitate the development of high-quality, standardized environmental condition of property maps that can be used to support FOSTs and FOSLs; (3) to facilitate the development of a standard practice for conducting environmental baseline surveys; and (4) to facilitate the development of a standard guide for preparing environmental baseline survey reports.

## 2. Referenced Documents

### 2.1 *ASTM Standards:*

E 1527 Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process<sup>2</sup>

E 1528 Practice for Environmental Site Assessments: Transaction Screen Process<sup>2</sup>

### 2.2 *Department of Defense Policies:*<sup>3</sup>

DoD Policy on the Environmental Review Process to Reach a Finding of Suitability to Lease (FOSL), September 1993

DoD Policy on the Environmental Review Process to Reach a Finding of Suitability to Transfer (FOST) for Property Where No Release or Disposal Has Occurred, June 1994

DoD Policy on the Environmental Review Process to Reach a Finding of Suitability to Transfer (FOST) for Property Where Release or Disposal Has Occurred, June 1994

DoD Policy on the Implementation of the Community Environmental Response Facilitation Act (CERFA), September 1993

DoD Clarification of “Uncontaminated” Environmental Condition of Property at Base Realignment and Closure (BRAC) Installations, October 1996

## 3. Terminology

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

### 3.2 *Definitions:*

3.2.1 *environmental baseline survey (EBS)*—a survey of DoD real property based on all existing environmental information related to the storage, release, treatment, or disposal of hazardous substances or petroleum products or derivatives on the property to determine or discover the obviousness of the presence or likely presence of a release or threatened release of any hazardous substance or petroleum product. In certain cases, additional data, including sampling and analysis, may be needed in the EBS to support classification of the property into one of the standard environmental condition of property area types. Additionally, an EBS may also satisfy the uncontaminated property identification requirements of CERFA. An EBS will consider all sources of available information concerning environmentally significant current and past uses of the real property and shall, at a minimum, consist of the following: (1) a detailed search and review of available information and records in the possession of the DoD components or records made available by the regulatory agencies or other involved Federal agencies. DoD components are responsible for requesting and making reasonable inquiry into the existence and availability of relevant information and records to include any additional study information (for example, surveys for radioactive materials, asbestos, radon, lead-based paint, transformers containing PCB, Resource Conservation and Recovery Act Facility Assessments and Investigations (RFA and RFI), and underground storage tank cleanup program) to determine the environmental condition of the property; (2) a review of all reasonably obtainable Federal, state, and local government records for each adjacent facility where there has been a release or likely release of any hazardous substance or any petroleum product, and that is likely to cause or contribute to a release or threatened release of any hazardous substance or any petroleum product on the DoD real property; (3) an analysis of aerial photographs that may reflect prior uses of the property, which are in the possession of the Federal government or are reasonably obtainable through state or local government agencies; (4) interviews with current or former employees, or both, involved in operations on the real property; (5) visual inspections of the real property; any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property; and of properties immediately adjacent to the real property, noting sewer lines, runoff patterns, evidence of environmental impacts (for example, stained soil, stressed vegetation, and dead or ill wildlife), and other observations that indicate the actual or

<sup>2</sup> Annual Book of ASTM Standards, Vol 11.04.

<sup>3</sup> Available from National Technical Information Services, 5285 Port Royal Road, Springfield, VA 22161.

potential release of hazardous substances or petroleum products; (6) the identification of sources of contamination on the installation and on adjacent properties that could migrate to the parcel during Federal government ownership; (7) ongoing response actions or actions that have been taken at or adjacent to the parcel; and (8) physical inspection of the property adjacent to the real property, to the extent permitted by owners or operators of such property.

3.2.2 *environmental baseline survey (EBS) report*—the written record of an EBS that includes the following: (1) an executive summary briefly stating the areas of real property (or parcels) evaluated and the conclusions of the EBS; (2) the property identification (for example, the address, assessor parcel number, or legal description); (3) any relevant information obtained from a detailed search of Federal government records pertaining to the property, including available maps; (4) any relevant information obtained from a review of the recorded chain of title documents regarding the real property. The review should address those prior ownerships and uses that could reasonably have contributed to an environmental concern, and, at a minimum, cover the preceding 60 years; (5) a description of past and current activities, including all past DoD uses to the extent such information is reasonably available, on the property and on adjacent properties; (6) a description of hazardous substances or petroleum products management practices (to include storage, release, treatment, or disposal) at the property and adjacent properties; (7) any relevant information obtained from records reviews and visual and physical inspections of adjacent properties; (8) a description of ongoing response actions or actions that have been taken at or adjacent to the property; (9) an evaluation of the environmental suitability of the property for an intended lease or deed transaction, if known, including the basis for determination of such suitability; and (10) references to key documents examined (for example, aerial photographs, spill incident reports, and investigation results).

3.2.3 *environmental condition of property map*—a map, prepared on the basis of all environmental investigation information conducted to date, that shows the environmental condition of a DoD installation's real property in terms of the seven standard environmental condition of property area types defined in this classification.

3.2.4 *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 § 6921 *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).”

3.2.5 *petroleum products*—those substances included within the meaning of 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 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).”

3.2.6 *property*—the real DoD property subject to classification under the classification of environmental condition of property area types.

3.2.7 *recorded land title records*—records to be searched during a chain of title search, including 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 recorded, by law or custom, for the local jurisdiction in which the property is located. (Such records are commonly kept by a municipal or county recorder or clerk.) Such records may be obtained from title companies or from the local government agency directly.

3.2.8 *release*—any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous chemical, extremely hazardous substance, or CERCLA hazardous substance.

3.2.9 *relevant and appropriate requirements*—those cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility siting laws that, while not “applicable” to a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance at a CERCLA site, address problems or situations sufficiently similar to those encountered at the CERCLA site that their use is well suited to the particular site. Only those state standards that are identified in a timely manner and are more stringent than federal requirements may be relevant and appropriate.

3.2.10 *remedial actions*—those actions consistent with a permanent remedy taken instead of, or in addition to, removal action in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to the present or future public health or welfare or the environment.

3.2.11 *removal*—the cleanup or removal of released hazardous substances from the environment; such actions as may be necessary to take in the event of the threat of release of hazardous substances into the environment; such actions as may be necessary to monitor, assess, and evaluate the release

or threat of release of hazardous substances; the disposal of removed material; or the taking of such other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment, which may otherwise result from a release or threat of release.

3.2.12 *required remedial actions*—remedial actions determined necessary to comply with the requirements of CERCLA § 120(h)(3)(B)(i).

3.2.13 *required response actions*—removal or remedial actions, or both, determined necessary to comply with the requirements of CERCLA § 120(h)(3)(B)(i).

3.2.14 *risk-based criteria*—cleanup levels intended to meet a predetermined level of acceptable risk to human health or the environment.

3.2.15 *site inspection (SI)*—an on-site investigation to determine whether a release or potential release exists and the nature of the associated threats. The purpose is to augment the data collected in the preliminary assessment and to generate, if necessary, sampling and other field data to determine whether further action or investigation is appropriate.

### 3.3 *Descriptions of Terms Specific to This Standard:*

3.3.1 *adjacent properties*—those properties contiguous or partially contiguous to the boundaries of the property being surveyed during an EBS or other activity intended to classify the property into a standard environmental condition of property area type, or other properties relatively near the installation that could pose significant environmental concern or have a significant impact on the results of an EBS or on the classification of installation property into standard environmental condition of property area types, or both.

3.3.2 *aerial photographs*—photographs taken from an airplane or helicopter (from a low enough altitude to allow the identification of development and activities) of areas encompassing the property. Aerial photographs are commonly available from government agencies or private collections unique to a local area.

3.3.3 *all remedial action taken*—for the purposes of this classification, all remedial action, as described in CERCLA § 120(h)(3)(B)(i), has been taken if “the construction and installation of an approved remedial design has been completed, and the remedy has been demonstrated to the Administrator [of EPA] to be operating properly and successfully. The carrying out of long-term pumping and treating, or operation and maintenance, after the remedy has been demonstrated to the Administrator to be operating properly and successfully does not preclude the transfer of the property” (42 USC § 9620(h)(3)).

3.3.4 *applicable requirements*—those cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility siting laws that specifically address a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstances found at a CERCLA site. Only those state standards that are identified by a state in a timely manner and that are more stringent than federal requirements may be applicable.

3.3.5 *biased field sampling*—by any technique, field sampling of environmental media, which aids in the delineation of standard environmental condition of property area types.

3.3.6 *BRAC statutes*—Title II of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (Public Law 100-526, 10 USC 2687) and the Defense Base Closure and Realignment Act of 1990 (Part A of Title XXIX of Public Law 101-510, 10 USC 2687), collectively.

3.3.7 *carcinogenic*—a cancer-causing substance.

3.3.8 *chain of title review*—a review of recorded land title records, conducted as part of an EBS.

3.3.9 *chemical-specific*—associated with the definition of applicable, or relevant and appropriate, requirements (ARARs), chemical-specific ARARs are those that may define acceptable exposure levels and can therefore be used in establishing primary remediation goals.

3.3.10 *closing military installation*—installations identified for closure pursuant to BRAC statutes.

3.3.11 *disposal*—the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous substances, or petroleum products or their derivatives, into or on any land or water so that such hazardous substances, or petroleum products or their derivatives or any constituent thereof, may enter the environment or be emitted into the air or discharged into any waters including groundwater.

3.3.12 *environmental investigation*—any investigation intended to determine the nature and extent of environmental contamination or to determine the environmental condition of property at a BRAC installation. Environmental investigations may include, but are not limited to, environmental site assessments, preliminary assessments, site inspections, remedial investigations, EBSs, Resource Conservation and Recovery Act (RCRA) facility assessments, and RCRA facility investigations.

3.3.13 *environmental site assessment*—the process by which a person or entity seeks to determine whether a particular parcel of real property (including improvements) is subject to recognized environmental conditions. This is the same meaning as provided in Practice E 1527.

3.3.14 *exposure pathway*—the route from a contaminant source to a human or any other environmental receptor.

3.3.15 *interviews*—sessions with current or former employees involved in operations on the real property, conducted to ascertain if release, treatment, or disposal of hazardous substances, petroleum products, or their derivatives has occurred or is occurring on the real property.

3.3.16 *migration*—the movement of contaminant(s) away from a source through permeable subsurface media (such as the movement of a groundwater plume of contamination), or the movement of contaminant(s) by a combination of surficial and subsurface processes.

3.3.17 *obviousness*—the condition of being plain or evident. A condition or fact that could not be ignored or overlooked by a reasonable observer while conducting a records search or while physically or visually observing the property in conjunction with an EBS.

3.3.18 *practically reviewable*—information that is practically reviewable, that is, provided by the source in a manner

and 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 retrieved feasibly by reference to the location of the property or a geographic area in which the property is located are not generally practically reviewable. Most data bases 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. This term has the same meaning as provided in Practice E 1527.

3.3.19 *preliminary assessment (PA)*—the review of existing information and an off-site reconnaissance, if appropriate, to determine whether a release or potential release may require additional investigation or action. A preliminary assessment may include an on-site reconnaissance, if appropriate.

3.3.20 *reasonably obtainable*—information that is (1) publicly available, (2) obtainable from its source within reasonable time and cost constraints, and (3) practically reviewable. This term has the same meaning as the term "reasonably ascertainable," as provided in Practice E 1527.

3.3.21 *recognized environmental conditions*—the presence or likely presence of any hazardous substances or petroleum products on any DoD real property under conditions that indicate an existing release, a past release, or the material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, 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 minimus conditions that generally do not present a material risk of harm to the public health or environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.

3.3.22 *records search*—a detailed search and review of available information and records in the possession of the DoD components and records made available by the regulatory agencies or other involved Federal agencies, including, but not limited to, installation restoration program studies and analyses, surveys for radioactive materials, asbestos, radon, lead-based paint, electrical devices (that is, transformers) containing polychlorinated biphenyl (PCB), RCRA facility assessments and investigations to determine which, if any, hazardous substances or petroleum products may be present on the property. For the purposes of adjacent facilities, a records search includes the review of all reasonably obtainable Federal, state, and local government records for each adjacent facility where there has been a release or likely release of any hazardous substance or any petroleum product, and which is likely to cause or contribute to a release or threatened release of any hazardous substance or any petroleum product on the DoD real property.

3.3.23 *site property*—property within the boundaries of the DoD installation.

3.3.24 *standard environmental condition of property area type*—one of the seven environmental condition of property area types defined in this classification.

3.3.25 *standards-based criteria*—cleanup criteria intended to meet the performance standards for the selected remedial technology.

3.3.26 *storage*—the containment of hazardous substances, petroleum products, or their derivatives, either on a temporary basis or for a period of years, in such a manner as not to constitute the disposal of such hazardous substances, petroleum products, or their derivatives.

3.3.27 *unevaluated*—not previously evaluated during any type of environmental investigation. This may also be used to designate areas that are unevaluated regarding CERFA reporting requirements.

3.3.28 *visual or physical inspection, or both*—actions taken during an EBS to include observations made by vision while walking through or otherwise traversing a property and structures located on it and observations made by the sense of smell, particularly observations of noxious or foul odors.

3.4 *Acronyms*: Acronyms:

3.4.1 *ARARs*—applicable, or relevant and appropriate, requirements.

3.4.2 *ASTM*—American Society for Testing and Materials.

3.4.3 *CERCLA*—Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC 9620 and following).

3.4.4 *CERFA*—Community Environmental Response Facilitation Act of 1992 (102 Public Law 426, 106 Statute 2174).

3.4.5 *DoD*—Department of Defense.

3.4.6 *EPA*—United States Environmental Protection Agency.

3.4.7 *FOSL*—finding of suitability to lease, as described in the applicable DoD policy.

3.4.8 *FOST*—finding of suitability to transfer, as described in the applicable DoD policy.

3.4.9 *PCBs*—polychlorinated biphenyls.

3.4.10 *RCRA*—Resource Conservation and Recovery Act, as amended, 42 USC 6901 and following.

3.4.11 *USC*—United States Code.

## 4. Significance and Use

4.1 *Uses*—This classification is intended for use by DoD components in order to direct EBS efforts. It is also intended for use by preparers and reviewers of environmental condition of property maps and EBS reports used to support CERFA uncontaminated parcel identifications and parcels suitable for transfer by lease or by deed. This classification should be used to facilitate standardized determinations of the environmental condition of a DoD installation's real property. Such environmental condition of property determinations are necessary to assess the progress of ongoing environmental restoration, identify areas where further response may be required, identify areas where further evaluation is necessary, and to support FOSTs and FOSLs. An environmental condition of property map, which should be prepared using this classification, provides a consolidated view of a DoD installation's environmental investigation data, including sampling information.

## 5. Basis of Classification

5.1 *Classification*—Classification of the seven standard environmental condition of property area types is according to statutory requirements for (1) the identification of uncontaminated property within the provisions of CERFA and (2) for designating parcels of DoD installations as being suitable or unsuitable for transfer by deed within the provisions of CERCLA § 120(h)(3)(B)(i). Standard environmental condition of property area types are ranked in order of their suitability for transfer, with Area Types 1 through 4 being suitable for transfer by deed and Area Types 5 through 6 being unsuitable for transfer by deed until all remedial actions have been taken. Areas classified as Area Type 7 are either unevaluated or require further evaluation in order to classify them as one of the other environmental condition of property area types.

## 6. Standard Classification of Environmental Condition of Property Area Types

6.1 *Standard Environmental Condition of Property Area Type 1*—Areas where no release, or disposal of hazardous substances or petroleum products or their derivatives has occurred, including no migration of these substances from adjacent areas. This is a geographically contiguous area or parcel of real property where the results of investigations reveal that no hazardous substances or petroleum products or their derivatives were released, or disposed of on site property. A determination of this area type cannot be made, however, unless a minimum level of information gathering and assessment has been completed. In accordance with CERCLA § 120(h)(4), “the identification [of Type 1 areas] shall consist, at a minimum, of a review of each of the following sources of information concerning the current and previous uses of the real property: (i) A detailed search of Federal Government records pertaining to the property. (ii) Recorded chain of title documents regarding the real property. (iii) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies. (iv) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property. (v) A physical inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property. (vi) Reasonably obtainable Federal, state, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, and which is likely to cause or contribute to a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property. (vii) Interviews with current or former employees involved in operations on the real property. Such identification shall also be based on sampling, if appropriate under the circumstances.” These efforts (i through vii) can be functionally accomplished during the conduct of an EBS or a properly scoped preliminary assessment of the property being classified. However, if information gathered from these efforts indicates that hazardous substances, petroleum products, or their deriva-

tives have been released, or disposed of, the property should be classified as an Area Type 2, 3, 4, 5, 6, or 7.

6.2 *Standard Environmental Condition of Property Area Type 2*—Areas where only release or disposal of petroleum products has occurred. This is a geographically contiguous area or parcel of real property where the results of investigations reveal that only the release or disposal of petroleum products, or their derivatives has occurred. In accordance with CERCLA § 120(h)(4), “the identification [of Type 2 areas] shall consist, at a minimum, of a review of each of the following sources of information concerning the current and previous uses of the real property: (i) A detailed search of Federal Government records pertaining to the property. (ii) Recorded chain of title documents regarding the real property. (iii) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies. (iv) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property. (v) A physical inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property. (vi) Reasonably obtainable Federal, State, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, and which is likely to cause or contribute to a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property. (vii) Interviews with current or former employees involved in operations on the real property. Such identification shall also be based on sampling, if appropriate under the circumstances.” These efforts (i through vii) can be functionally accomplished during the conduct of an EBS or a properly scoped preliminary assessment of the property being classified. However, if information gathered from these efforts indicates that hazardous substances have been released to the property, the property should be classified as an Area Type 3, 4, 5, or 6.

6.3 *Standard Environmental Condition of Property Area Type 3*—Areas where the release, disposal, or migration, or some combination thereof, of hazardous substances has occurred, but at concentrations that do not require a removal or remedial action. This is a geographically contiguous area or parcel of real property where environmental evidence demonstrates that hazardous substances have been released, or disposed of, but are present in quantities that require no response action to protect human health and the environment. Such quantities of hazardous substances or petroleum products can be below defensible detection limits or can be above detection limits but below action levels. In the absence of installation-specific risk-based or standards-based criteria that have received regulatory concurrence, below action levels means that the concentration of any hazardous substance or petroleum constituent in any medium does not exceed chemical-specific ARARs. A designation of this area type also means that risk estimates completed for contamination do not do the following: (1) exceed  $10^{-6}$  for any carcinogenic hazardous substance or petroleum constituent detected in any medium; (2) result in a

hazard index above 1 for any noncarcinogenic hazardous substance or petroleum constituent detected in any medium; (3) exceed  $10^{-6}$  for all carcinogenic hazardous substances and petroleum constituents, taken together, in any exposure pathway; (4) result in a hazard index above 1 for all noncarcinogenic hazardous substances and petroleum constituents, taken together, in any exposure pathway; (5) exceed  $10^{-4}$  for all carcinogenic hazardous substances and petroleum constituents accumulated across all pathways; or (6) result in a hazard index above 1 for all noncarcinogenic hazardous substances and petroleum constituents cumulated across all pathways. An Area Type 3 classification cannot be made with confidence unless a minimum level of information gathering and assessment has been completed. As such, all such determinations should be made on the basis of a site inspection or equivalent level of effort, which includes biased field sampling and laboratory analysis to support a conceptual understanding of the area. However, if information gathered from these efforts indicates that hazardous substances are on the property above action levels, the property should be classified as an Area Type 5 or 6.

**6.4 Standard Environmental Condition of Property Area Type 4**—Areas where release, disposal, or migration, or some combination thereof, of hazardous substances has occurred, and all remedial actions necessary to protect human health and the environment have been taken. This is a geographically contiguous area or parcel of real property where all remedial actions necessary to protect human health and the environment have been taken. Type 4 areas include those areas in which an EBS report or other environmental investigation documents evidence that hazardous substances are known to have been released or disposed of on the property, but all remedial actions necessary to protect human health and the environment regarding any hazardous substances remaining on the property have already been taken to meet the covenant requirements of CERCLA § 120(h)(3)(A)(ii).

**6.5 Standard Environmental Condition of Property Area Type 5**—Areas where release, disposal, or migration, or some combination thereof, of hazardous substances has occurred and removal or remedial actions, or both, are under way, but all required remedial actions have not yet been taken. This is a geographically contiguous area or parcel of real property where the presence of sources or releases of hazardous substances has been confirmed by the results of sampling and analysis efforts. The results of such sampling and analysis efforts may be contained in electronic data bases or other environmental

investigation or environmental compliance reports, or both. This area type contains contaminant concentrations above action levels. Such concentrations do not meet the criteria of a Type 3 area classification. Removal actions are under way but are not yet demonstrated to have met the criteria of an Area Type 4. Remedial systems for Type 5 areas may be partially or entirely in place, but they have not been demonstrated to EPA to be “operating properly and successfully” within the meaning of CERCLA § 120(h)(3)(A)(ii).

**6.6 Standard Environmental Condition of Property Area Type 6**—Areas where release, disposal, or migration, or some combination thereof, of hazardous substances has occurred, but required response actions have not yet been initiated. This is a geographically contiguous area or parcel of real property where the presence of sources or releases of hazardous substances has been confirmed by the results of sampling and analysis efforts. The results of such sampling and analysis efforts may be contained in electronic data bases or environmental investigation or environmental compliance reports, or both. This area type contains concentrations of contaminants above action levels. Such concentrations do not meet the criteria of a Type 3 area classification. Required remedial systems or other response actions have not been initiated.

**6.7 Standard Environmental Condition of Property Area Type 7**—Areas that are unevaluated or that require additional evaluation. This is a geographically contiguous area or parcel of real property that is unevaluated, or a geographically contiguous area or parcel of real property where the presence of sources or releases of hazardous substances or petroleum products or their derivatives is suspected, but not well characterized, based on the results of a properly scoped records search, chain of title review, aerial photography review, visual inspection, set of employee interviews, and possibly sampling and analysis. They do not fit any of the previous area types with certainty because evaluation efforts have not occurred, are ongoing, or are inconclusive.

## **7. Keywords**

7.1 Community Environmental Response Facilitation Act (CERFA); Comprehensive Environmental Response, Compensation and Liability Act; environmental baseline survey (EBS); environmental condition of property; FOSL; FOST; hazardous substance; property area type; real estate; recognized environmental conditions; remediation

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