

Property Transfer

EPA role at BRAC and other federal facilities

Martha Brock, EPA Region 4

Suitable for Transfer?

- Deed Transfer
- Lease

Suitable for Transfer?

- Uncontaminated
- Cleaned up
- Remediation not complete

Suitable for Transfer?

- Uncontaminated

- CERCLA 120(h)(4)

- Property where there has been no release of hazardous substances or petroleum products or their derivatives
 - EPA Guidance, *Military Base Closures: Guidance on EPA Concurrence in the Identification of Uncontaminated parcels under CERCLA Section 120(h)(4)*, <http://www.epa.gov/fedfac/documents/doc1.htm>

Suitable for Transfer?

- Covenant that all remedial action necessary to protect human health and the environment has been taken CERCLA, (120(h)(3)(A))
 - Remedial action – defined in CERCLA 101(24)
 - Those actions consistent with permanent remedy taken instead of or in addition to removal actions
 - Remedial process – described in the NCP, 40 CFR 300.430
 - Action is complete – has met its RAOs

Suitable for Transfer?

- The “comet” remedies
 - A remedy with a tail
 - If construction and installation of an approved remedial design has been demonstrated to the EPA Administrator to be operating properly and successfully (OPS)
 - *Guidance for Evaluation of Federal Agency Demonstrations that Remedial Actions are Operating Properly and Successfully Under CERCLA Section 120(h)(3)*
 - <http://www.epa.gov/fedfac/documents/896mm.htm>

Suitable for Transfer?

- Early Transfer/Covenant Deferral Request
 - CERCLA 120(h)(3)(C)
 - Response Action Assurances in Deed
 - Use restrictions necessary for protection of human health and the environment
 - Use restrictions to prevent disruption of response action or oversight
 - Assurance that response action will be taken and identify the schedule as approved
 - Budget request will be submitted to accomplish remediation according to approved schedule

Suitable for Transfer?

- “Early” Transfer – cont’d
 - *EPA Guidance on the Transfer of Federal Property by Deed Before All Necessary Remedial Action Has Been Taken Pursuant to CERCLA Section 120(h)(3) -- (Early Transfer Authority Guidance)*
 - <http://www.epa.gov/swerffrr/documents/hkcover.htm>

Suitable for Transfer?

- Leasing, CERCLA 120(h)(3)(B)
 - Requirement to give covenant does not apply (notice provisions do)
 - At BRAC installations, must determine in consultation with EPA that
 - Property is suitable for lease
 - Uses are consistent with protection of HH&E
 - There are assurances that the U.S. will take all remedial action necessary that has not been taken as of the date of the lease

Suitable for Transfer?

- Any questions?
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