U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
National Policy

ORDER 1050.19B

Effective Date:
10/03/07

SUBJ: Environmental Due Diligence Audits in the Conduct of FAA Real Property Transactions

1. Consistent with the Federal Aviation Administration's (FAA) mission to be the national and international leader in aviation environmental issues, while fostering a safe, secure, and efficient aviation system, is the need for an effective process to acquire real property free from environmental liabilities. The Environmental Due Diligence Audit (EDDA) program provides a comprehensive framework for ensuring that the FAA adheres to applicable environmental regulations and best practices associated with property acquisitions and disposals while maintaining the necessary infrastructure to encourage the development of civil aeronautics and safety of air commerce.

2. This order prescribes policy, delegates authority, and assigns responsibility for ensuring agency compliance with the provisions of the EDDA program.

3. This order sets forth procedures for the performance, management, and oversight of EDDAs by agency personnel in support of real property transactions. This order also provides direction on the preparation and review of EDDA reports, including interpretation of results. The policies and procedures set forth herein are intended solely for the guidance of employees and agents of the FAA. They may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law or in equity, by any person.

4. Each office may supplement this broad coverage with guidelines, instructions, or protocol specific to its needs in a manner that is consistent with this order.

5. As EDDA requirements are evolving and dynamic, the EDDA order cannot remain static. Recognizing that program improvement is a vital element in the program's effectiveness and responsiveness to FAA personnel, users have the opportunity to offer suggestions to update and improve this directive through the use of FAA Form 1320-19, Directives Feedback Information.

Robert A. Sturgell
Acting Administrator

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Chapter 1. General Requirements

1-1. Purpose of This Order. This order establishes the Federal Aviation Administration (FAA) policy, procedures and responsibilities and implementation guidelines for performing Environmental Due Diligence Audits (EDDAs) in order to identify and minimize potential environmental liabilities related to real property transactions.

1-2. Audience. All FAA employees and managers who conduct FAA real property transactions.

1-3. Where Can I Find This Order. You can find an electronic copy of this order on the Directives Management System (DMS) website: https://employees.faa.gov/tools_resources/orders_notices/

1-4. Cancellation. Order 1050.19A, Environmental Due Diligence Audits in the Conduct of FAA Real Property Transactions, dated October 15, 2003, is canceled.

1-5. Explanation of Policy Changes. The order has been revised to include:

a. Roles and Responsibilities. Provides updated roles and responsibilities that reflect the current FAA organizational structure and assignment of program responsibilities.

b. Training and Experience. Describes new training and experience requirements for persons conducting EDDAs in accordance with Environmental Protection Agency's (EPA) standards and practices for all appropriate inquiries in 40 CFR Part 312.

c. Standards and Practices. Cites new standards for conducting Phase I EDDAs in accordance with ASTM Standard E1527-05 (Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process) and 40 CFR Part 312.

d. Notification Requirements. Includes new language concerning compliance with notification requirements in 40 CFR Part 373 and the Federal Management Regulations (FMR).

1-6. Roles and Responsibilities.

a. Organization Requesting the Transaction (ORT). The ORT is any FAA organization, including national program offices, which requests a real property transaction. The ORT shall:

(1) Notify the Aviation Logistics Organization (ALO) of the need for the FAA to acquire or dispose of real property rights.

(2) Coordinate with the Real Estate Contracting Officer (RECO) on which real property rights need to be obtained to meet the FAA mission and which property rights are no longer needed in carrying out the FAA mission.

(3) Identify the Technical Reviewer (TR) in conjunction with the relevant FAA office responsible for the real property.

(4) Determine the need to conduct an EDDA in conjunction with the TR and Legal Counsel, and if an EDDA is required ensure that the EDDA is funded and performed in accordance with this order.

(5) Provide the EDDA reports to and coordinate with all FAA reviewers.

b. Aviation Logistics Organization (ALO).

(1) ALO shall provide policy and guidance to the RECOs in the Service Areas and Centers on how this order affects their operational responsibilities.

(2) The Associate Administrator for Region and Center Operations (ARC) Service Center Logistics Division shall ensure that the real property transaction is executed by a RECO.

(3) The Planning, Policy and Performance Division (ALO-200) shall provide information regarding application of the Hazardous Substance Contamination Clause (HSCC), as well as the most current text to be included in the clause (see paragraph 1-11).

c. Real Estate Contracting Officer (RECO).

(1) Determine, in consultation with the ORT, the type of property rights that should be obtained.

(2) Obtain the rights of entry required to perform EDDAs.

(3) Execute contracts for the acquisition of new sites or disposal of real property only after the EDDA process required by this order has been completed and the appropriate Technical Review Letter provided.

(4) Retain permanently the original or an approved copy of the EDDA report and its Technical Review Letter with the real property transaction file. For cases where an EDDA is not conducted, a signed memorandum (see appendix B) and the EDDA Waiver Request Form (see appendix C), if applicable, must be included in the real property transaction file.

(5) Comply with disclosure and reporting requirements of 40 CFR Part 373 and the FMR.

d. Technical Reviewer (TR).

(1) Evaluate the qualifications of the contractors hired to conduct an EDDA.

(2) Provide the Site Assessor (SA) with guidance on FAA requirements for an EDDA.

(3) Develop and/or approve the scope to be used by the SA.

(4) Coordinate contractor site visits.

(5) Review the resulting reports to ensure that the reports meet the technical requirements of this order.

e. Site Assessor (SA).

(1) Conduct the EDDA, develop recommendations, and provide reports.

(2) For cases where the SA is an FAA employee, coordinate with the TR to determine the scope of the EDDA.

f. Office of Environment & Energy (AEE).

(1) Review overall FAA compliance with the provisions of this order.

(2) Provide assistance in developing guidelines and procedures for implementation of this order, interpreting policies established in this order, and advising responsible officials in FAA concerning changes in environmental liability related to real property transaction practices.

g. Office of the Chief Counsel (AGC) and Regional, Technical Center, and Aeronautical Center Counsel.

(1) Provide legal advice and counsel concerning applicable legal requirements.

(2) Review proposed changes in the HSCC language.

(3) Review, approve and sign EDDA reports and EDDA waiver requests for legal sufficiency.

h. Office of Airport Planning and Programming (APP). APP shall ensure that land acquisition and facilities constructed or relocated under the Airport Improvement Program (AIP) meet the requirements of this order for facilities to be operated by the FAA.

i. ATO Service Unit Vice Presidents.

(1) Ensure EDDAs are performed in accordance with this order for all ATO real property transactions.

(2) Anticipate the impact of this order on the design and implementation of new systems and include in the planning of its national programs the requisite time and funds for the accomplishment of the EDDA and real property acquisition as well as the time and funds for any EDDA necessary for the property disposal as a result of facility establishments and decommissioning.

(3) Include the financial and schedule impacts of this order on the design and deployment of new systems and include it in planning the life cycle requirements (e.g., acquisition, disposal, decommissioning) of its national programs.

j. ATO Service Area Directors for Technical Operations (ATO-W), Terminal (ATO-T), and En Route and Oceanic (ATO-E). The ATO Service Area Directors, or designees, shall implement the requirements of this order for ATO real property transactions including:

(1) Identify the TR in conjunction with the ORT.

(2) Review, approve and sign EDDA reports for the relevant ATO service unit.

(3) Determine applicability of the EDDA waivers in coordination with Legal Counsel and the TR.

(4) Approve the initiation of Phase II EDDA activities.

k. ATO Service Center Managers. The ATO Service Center Managers, or designees, shall assist the ATO Service Area Directors for ATO-W, ATO-T, and ATO-E in implementing the requirements of this order, including:

(1) Provide technical, planning, and requirements support.

(2) Manage resources for projects conducted by ATO Engineering Services.

l. ATO Engineering Services Managers. The ATO Engineering Services Managers shall assist the ATO Service Area Directors for ATO-W, ATO-T, and ATO-E, as designated, to implement the requirements of this order for ATO real property transactions associated with engineering projects, including:

(1) Identify the TR in conjunction with the ORT.

(2) Review, approve and sign all ATO EDDA reports.

(3) Determine applicability of the EDDA waivers in coordination with Legal Counsel and the TR.

(4) Approve the initiation of Phase II EDDA activities.

m. Technical Center Director and Aeronautical Center Director. The Technical Center Director and Aeronautical Center Director shall implement the requirements of this order when activities under their purview involve requests for real property transactions, including:

(1) Ensure that adequate funding is requested for these activities.

(2) Consult with the Program Managers for Environment and Safety.

(3) Ensure that adequate training is provided for applicable personnel.

(4) Coordinate with the RECOs for rights of entry and required logistics.

(5) Coordinate with Master Planning and Site Selection (ACT-40) or with the Office of Facility Management (AMP-1) for projects requiring cleanup.

n. Office of Budget (ABU).

(1) Use this order as the basis for supporting EDDAs to account for additional costs required for environmental issues in the acquisition and disposal of real property.

(2) Consider the additional costs when justifying the budget to Congress.

o. Assistant Administrator for Financial Services (ABA) / Chief Financial Officer (CFO).

(1) Ensure that adequate funding is requested for the EDDA program in the budget out years.

(2) Ensure that the program offices consider these requirements in their budget submittals.

1-7. Professional Qualifications and Training. Each organization covered by the roles and responsibilities in paragraph 1-6 of this order shall ensure that FAA personnel and managers are adequately trained and qualified to oversee and manage the EDDA process.

a. SA and TR. Both qualified SAs who perform EDDAs and TRs who oversee EDDAs must meet EPA's definition of "Environmental Professional" as provided in 40 CFR §312.10 and in appendix E. .

b. Contracting Officer's Technical Representative (COTR) Training. All FAA personnel who provide oversight for Phase II EDDA investigations shall have completed the COTR training. Additionally, personnel should have the requisite experience for overseeing these types of investigations.

1-8. Funding. All FAA organizations affected by this order shall submit a fiscal year budget item, as needed, for the fulfillment of their responsibilities regarding the EDDA process. The Office of Environment and Energy Hazardous Materials and Special Projects Staff (AEE-200) can be contacted for assistance in these budget estimates.

1-9. Determining the Need for an EDDA.

a. Initiation of EDDA Process. Once the ORT notifies the RECO to begin a real property transaction, the ORT shall coordinate with the FAA organization that is or will be responsible for the property to designate a TR to oversee the EDDA process. The ORT, TR, and Legal Counsel will determine if an EDDA is required in order to identify and document potential environmental liabilities at the subject property.

b. EDDA Not Required. An EDDA will not be required for real estate transactions listed in the paragraphs below. For such transactions, a *memorandum*, shown in appendix B, must be included in the real property transaction file explaining the rationale for not conducting the EDDA and also

indicating that coordination between the ORT, TR, and Legal Counsel occurred and the action was approved.

(1) Real property transaction involving leasing of office space, and not otherwise required under paragraph 1-9.d.

(2) Easements or right-of-way access agreements where the FAA is not performing any operations on the property in these agreements, and not otherwise required under paragraph 1-9.d.

(3) Lease renewals.

(4) Termination of leases for property that was leased but never used by the FAA.

c. EDDA May Be Waived. An EDDA may be waived for real estate transactions for which an *EDDA Waiver Request Form*, shown in appendix C, has been completed, and the resulting evaluation indicates that no further investigation is warranted at the subject property. The EDDA Waiver Request Form will be reviewed and signed by the TR, Legal Counsel, and the FAA office responsible for the property. The responsible office will be the relevant ATO Service Area Director or ATO Vice President (or designee) for the appropriate service unit for ATO real estate transactions. For non-ATO real estate transactions, the responsible office will be the relevant Line of Business (LOB) Regional Office. The signed EDDA Waiver Request Form, if applicable, is attached to the memorandum. The following are situations where an EDDA may be waived:

(1) Lease acquisition/termination or other permitted use where the HSCC is in lease, and not otherwise required under paragraph 1-9.d.

(2) Lease acquisition/termination or other permitted use where the real property transaction is with a government entity, and not otherwise required under paragraph 1-9.d.

(3) Lease acquisition/termination or other permitted use where FAA is the lessor.

(4) Property disposal where the FAA's activities at the site did not include the usage, storage or disposal of any hazardous substances and materials or generation of hazardous waste.

(5) Any real property transaction not otherwise included under paragraph 1-9.d. that the TR and Legal Counsel have determined to present minimal risk.

d. EDDA Required. The following are situations where an EDDA is always required:

(1) Purchase/sale of FAA property.

(2) When the TR has determined the risk is sufficient to warrant an EDDA (e.g., evaluation using the EDDA Waiver Request Form).

(3) When contamination is suspected on or in proximity of the site.

(4) Any real property transactions involving an Air Route Traffic Control Center (ARTCC), Airport Traffic Control Tower (ATCT), Air Route Surveillance Radar (ARSR), or Combined Center and Radar Approach Control (CERAP).

1-10. EDDA Report Review and Approval. The following paragraphs describe the review and approval process for EDDA reports.

a. TR Review. The TR reviews the content and completeness of the EDDA report against the technical requirements of this order. If the report is determined by the TR to be complete and in accordance with this order, then the TR will complete a technical conformance statement (i.e., Technical Review Letter). A sample technical conformance statement follows: "The EDDA report for the Property physically located at (*specify location*) has been reviewed according to the requirements of Order 1050.19B. This letter is provided to document that the EDDA report meets all of the technical requirements of Order 1050.19B." When the TR determines that the EDDA report is in compliance with this order, the TR forwards the report to Legal Counsel for review.

b. Legal Counsel Review. The EDDA report is reviewed for liability risk assessment and legal sufficiency by Legal Counsel. Early involvement of Legal Counsel is recommended to reduce the amount of time spent addressing comments. The TR and Legal Counsel coordinate on responses to comments.

c. Signature Authority. The TR forwards the final EDDA report for signature. For ATO real property transactions, the EDDA report signature authority lies with the ATO Service Area Director or ATO Vice President (or designee) for the appropriate service unit. For non-ATO LOB, the EDDA report signature authority lies with the LOB Regional Office.

d. Final EDDA Report. After all signatures have been obtained, the TR forwards the final EDDA report to the ORT.

e. Copy Retention. The ORT will keep a copy of the EDDA report and forward the final EDDA report to the RECO (with original signatures). The RECO will place a copy of the report in the real property transaction file.

f. EDDA Documentation from Other Entities. The FAA may accept an EDDA conducted by other federal, state and local agencies if the EDDA meets the requirements of this order and has been through the FAA review process. The FAA may not accept an EDDA conducted on behalf of a private entity.

g. EDDA Approval. The EDDA report shall be finalized and approved before the real property transaction is executed. The ORT should build flexibility into the real property transaction schedule to accommodate completion of the EDDA process.

1-11. Hazardous Substance Contamination Clause (HSCC). The liability limitation clause in figure 1-1 has been developed for use in appropriate FAA real property transactions. For specific details regarding application of this clause, as well as the most current text to be included in the clause, please contact the Planning, Policy and Performance Division (ALO-200) and/or refer to the FAA

Acquisition System Toolset (FAST) / Real Property and Facilities Guidance. Any changes in the HSCC language must be reviewed by Legal Counsel.

Figure 1-1. FAA's Liability Limitation Clause for Real Property Transactions

The Government agrees to remediate, at its sole cost, all hazardous substance contamination on the leased premises that is found to have occurred as a direct result of the installation, operation and/or maintenance of the (specify type of facility or equipment). The Lessor agrees to remediate or have remediated, at its sole cost, any and all other hazardous substance contamination found on the leased premises. The Lessor also agrees to save and hold the Government harmless for any and all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the leased premises which are not directly attributable to the installation, operation and/or maintenance of the (specify type of facility or equipment).

Chapter 2. Phase I EDDA – Site Assessment

2-1. Overview. This chapter briefly describes the Phase I EDDA objectives and process. The purpose of a Phase I EDDA is to document the environmental conditions of a property and identify whether environmental contamination is likely to be present. The Phase I EDDA may also provide information for satisfying notification requirements when an agency disposes of a property, as outlined in chapter 4 of this order. A Phase I EDDA is comprised of activities such as site visits, records review, regulatory review, geologic and hydrogeologic review, report preparation, and report review. All information included in the completed Phase I is gleaned from existing documents or inferred from observations and interviews made during a site visit. Phase I does not include sampling.

2-2. Procedures. Phase I EDDAs must be conducted in accordance with EPA standards on all appropriate inquiries in 40 CFR Part 312. EPA standards reference conformance with ASTM Standard E1527-05 as a basis for Phase I EDDAs. A sample table of contents for a Phase I EDDA report is included as appendix F.

a. Determination of Scope. The scope of an EDDA depends on a basic understanding of the site and surrounding area to be investigated. Advance knowledge of the type of site (e.g., former industrial land, virgin forest, office space) allows the SA or TR to make a professional judgment on the amount of scrutiny or effort each aspect of the EDDA receives. For cases where a contractor performs the EDDA, the TR will be responsible for establishing the scope of the EDDA and ensuring compliance with this order. For cases where the SA is an FAA employee, the SA will coordinate with the TR regarding the scope of the EDDA.

b. Exceptions to All Appropriate Inquiries. Some inquiries that are required as part of the EPA standards on "all appropriate inquiries" may not be relevant to all FAA real property transactions. For example, the EDDA investigation need not include these inquiries under the following circumstances:

(1) **Purchase Price.** As required by 40 CFR §312.29, the relationship of the purchase price to the fair market value of the subject property must be considered if the property was not contaminated. For FAA real property transactions, the purchase price may not be relevant given that property may be obtained through a no cost lease or may be ceded to the government. In such cases, an explanation of the lease or purchase circumstances in the EDDA report will suffice to meet this requirement.

(2) **Historical Sources of Information.** As required by 40 CFR §312.24, historical documents and records must be reviewed for the purposes of achieving the objectives and performance factors of "all appropriate inquiries." Historical documents and records may include aerial photographs, fire insurance maps, building department records, chain of title documents, and land use records. There may not be chain of title documents for federal property owned by the government for a substantial period of time (i.e., 100 or more years), or the chain of title documents may not provide detailed information about land use. The SA should use discretion with the decision to perform a search of chain of title documents. For federal property, the SA should contact the federal agency that currently uses the property and request records concerning past use.

c. EDDA Validation and Accuracy. If the real property transaction does not occur within 180 days of the date of the site survey and the date of the records review (whichever date is earlier), the TR must ensure that the findings of the EDDA are still valid, complete, and accurate and in accordance with this order before the real property transaction is executed. If the scope of the project or the environmental condition of the property has changed substantially, the EDDA must be updated before proceeding with the real property transaction.

2-3. Phase I Decision Making. The ORT evaluates the findings, conclusions, and recommendations contained in the Phase I EDDA report and decides how to proceed with a proposed real property transaction. Figure 2-1 presents the decision making process for acquisition and lease executions and figure 2-2 presents the decision making process for disposal and lease terminations.

Figure 2-1. Acquisition and Lease Execution Actions Following Phase I Report

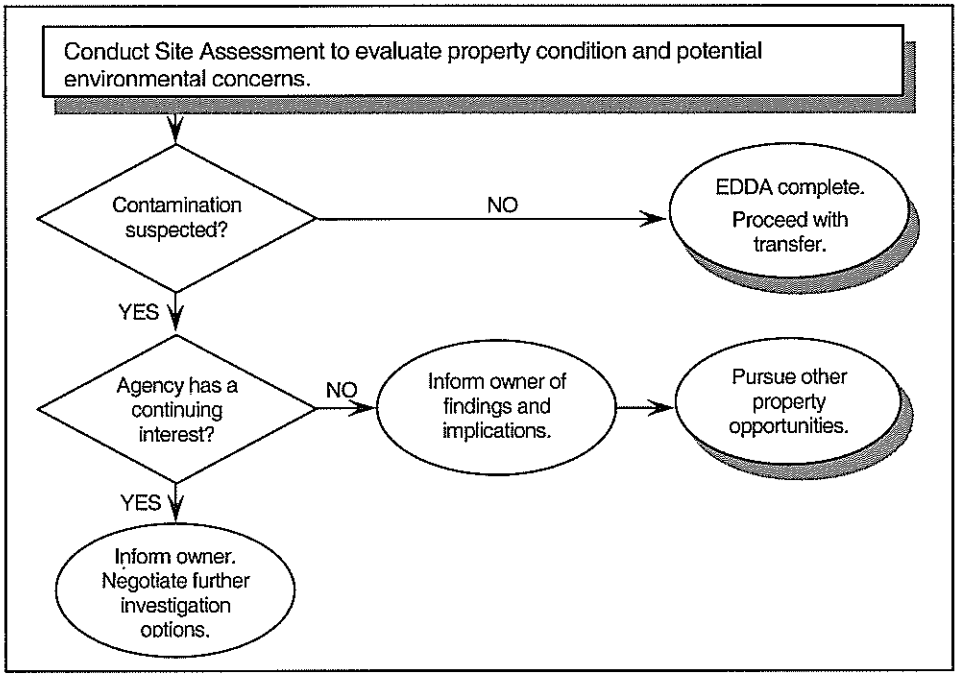
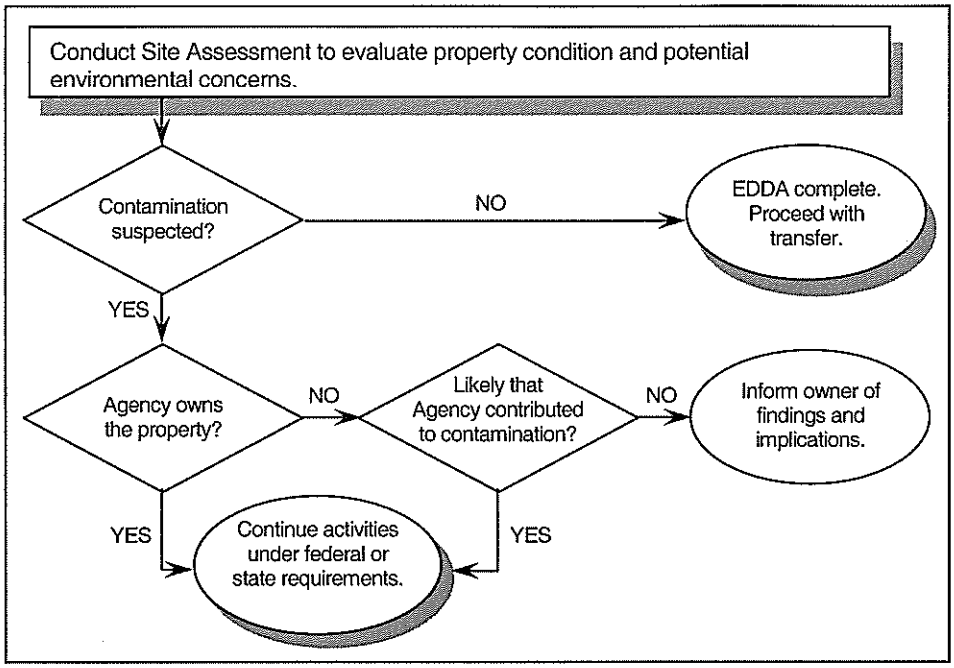


Figure 2-2. Disposal and Lease Termination Actions Following Phase I Report



a. No Environmental Contamination. For all transactions, if the Phase I EDDA report findings do not indicate the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that suggest an existing/past/threat of release into structures, ground, ground water, or surface water, then the EDDA process is complete, environmental due diligence has been met, and results contribute to satisfying property disposal obligations under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) §120(h)(4). Additional statutory and regulatory information is provided in appendix D.

b. Environmental Contamination Suspected or Confirmed. Indication of contamination suspected or confirmed in the Phase I EDDA report may include:

(1) Hazardous materials are used, stored, or treated on-site, in such a manner that they may have impacted soil or ground water.

(2) The subject property has a history of contamination or indications of a release or suspected release are evident (e.g., stressed vegetation, employee interviews).

(3) There is evidence or indications of contamination from adjacent properties that may have migrated to the subject property (e.g., stressed vegetation, employee interviews).

(4) Underground tanks are in place or have been removed without a document of a "clean close" issued by the local environmental authorities. However, further investigation may not be necessary if the owner/operator can certify by tank integrity/leak detection documentation that the tanks are not leaking.

(5) Evidence of leaking or excessive spillage is present close to the aboveground tanks.

(6) On-site retention ponds are present.

(7) Pesticides were managed or stored on-site in an inappropriate manner, or unregistered pesticides are observed onsite.

(8) Polychlorinated biphenyl (PCB)-containing equipment is used onsite or on adjacent property and a leak has occurred, or is suspected (e.g., due to staining around the equipment).

c. Actions Following Determination of Environmental Contamination Suspected or Confirmed. If the Phase I EDDA report findings do indicate the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, ground water, or surface water of the property, then decision-makers must weigh their options.

(1) **Property Acquisition or Lease Execution.** If the FAA is considering property acquisition or lease execution and the findings indicate suspected contamination or liability, the decision-maker should evaluate other property options against the importance or strategic value of the subject property (see figure 2-1). Provided that the FAA has continuing interest in the property, a Phase II EDDA must be conducted to determine whether or not contamination is present (see chapter 3).

(2) **Property Disposal or Lease Termination.** If the property transaction is a property disposal or lease termination and the findings indicate suspected contamination or liability, additional investigation and potential remediation may need to be continued under CERCLA, the Resource Conservation and Recovery Act (RCRA), and state or local requirements to determine if the FAA contributed to the contamination (see figure 2-2). A Phase II EDDA may be considered, but is not required, for property disposal or lease termination. The decision-maker may instead address suspected contamination or liability through FAA's cleanup program. If the property is being sold or otherwise transferred by the FAA, it shall be determined whether notification must be provided to the new owner regarding the environmental condition of the property. See paragraph 4-2 for more information on disclosure.

Chapter 3. Phase II EDDA – Confirmation Sampling

3-1. Overview. A Phase II EDDA is necessary when Phase I EDDA indicates likelihood of environmental contamination. During Phase II limited site sampling is used to confirm the presence or absence of suspected contamination identified in Phase I.

3-2. Procedures.

a. For conduct of Phase II EDDAs, conformance with the most recent version of ASTM Standard E1903 is required. ASTM Standard E1903 provides a framework for employing good commercial and customary practices in conducting a Phase II Environmental Site Assessment (ESA) of a parcel of property with respect to the potential presence of a range of contaminants that are within the scope of CERCLA as well as petroleum products.

b. Environmental Sampling. The Phase II EDDA includes further investigation of possible contamination discovered during the Phase I EDDA, and will include on-site environmental testing and laboratory analysis. The Phase II investigation may require extensive sampling and may be conducted in several stages to obtain the required information more effectively. Types of Phase II sampling may include:

(1) Soil sampling determines if a release has had an impact on site soil by assessing the most likely sources of contamination.

(2) Ground water sampling determines if a release has had an impact on site ground water. It often takes place after, or in conjunction with, soil testing, although it is not necessary to take ground water samples at each location from which a soil sample is taken.

(3) Drums and waste materials testing determines whether drums or other waste materials found or abandoned onsite have posed a threat to ground water or soil; it is often performed in conjunction with soil and ground water testing.

(4) Underground tank testing determines whether a tank (and associated piping) has leaked, or is likely to leak, based on the age of the tank, tank construction materials, containment used, any other methods of protection (i.e., cathodic), and leak detection methods.

(5) Indoor air quality sampling traces the migration of soil and ground water contamination into a building.

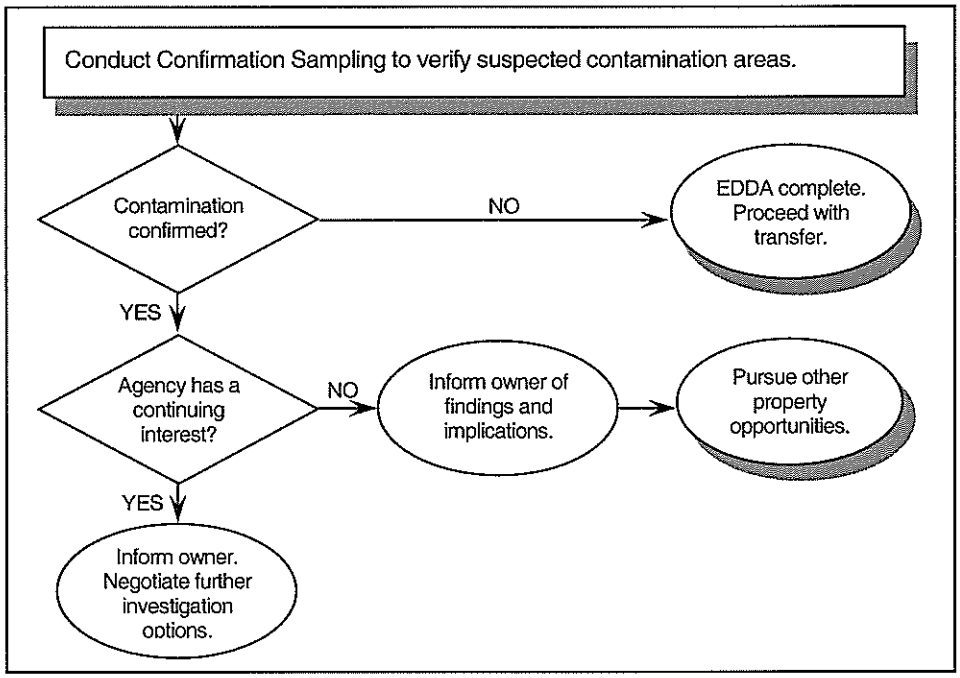
3-3. Phase II Decision Making.

a. Use of the Phase II Report. The Phase II report summarizes and expands upon the Phase I investigation and includes the analytical results from sampling. Figure 3-1 illustrates the typical decision making process for acquisition and lease execution actions. There are two significant outcomes of the Phase II: contamination is not confirmed or contamination is confirmed.

(1) If *contamination is not confirmed* during a Phase II EDDA, the property transaction can proceed without adding undue risk for environmental liability.

(2) If the presence of *contamination is confirmed*, decision-makers must determine whether the importance of the site still outweighs potential liability accompanying acquisition of property rights.

Figure 3-1. Phase II Decision Process for Acquisition and Lease Execution Actions



b. Need for Further Study. If the sampling and analysis activities performed during the Phase II EDDA reveal the presence of hazardous substance or petroleum contamination above allowable limits and an alternative property could not be identified for acquisition, then the FAA will inform the owner and negotiate further investigation options.

Chapter 4. Compliance with Additional Disclosure and Reporting Conditions

4-1. Overview. This chapter briefly describes compliance with disclosure and reporting requirements of 40 CFR Part 373 and the FMR. These requirements and regulations may be applicable regardless of whether a Phase I EDDA is conducted or waived.

4-2. 40 CFR Part 373. If the property is being sold or otherwise transferred by the FAA, it shall be determined whether the property falls within the requirements of 40 CFR Part 373, Reporting Hazardous Substance Activity when Selling or Transferring Federal Real Property. The 40 CFR Part 373 regulations were codified under the authority of CERCLA §120(h)(3).

a. Reporting Hazardous Substance Activity. Whenever FAA enters into any contract for the sale or other transfer of real property which is owned by the United States and at which any hazardous substance was stored for one (1) year or more, known to have been released, or disposed of, the RECO must include in the contract notice of the type and quantity of such hazardous substance and notice of the time at which such storage, release or disposal took place, to the extent such information available on the basis of a complete search of agency files.

b. Applicability. The notice required for storage of hazardous substances for one (1) year or more is applicable only at sites where the hazardous substance has been stored at quantities greater than or equal to 1,000 kilograms or the amount of the substance's CERCLA reportable quantity (RQ) that is listed in 40 CFR §302.4, whichever amount is greater, or where the hazardous substances that is also listed in 40 CFR §261.30 as acutely hazardous waste when stored in quantities greater than or equal to 1 kilogram. The notice required for known releases of hazardous substances applies only when the released quantity meets or exceeds the CERCLA RQ.

c. Content of Notice. The notice must contain the information required by 40 CFR §373.3.

4-3. Federal Management Regulations (FMR). When an agency disposes of real property, the Phase I EDDA may also provide information for satisfying the FMR, 41 CFR Part 102. FMR requirements are beyond the scope of the standards and practices for "all appropriate inquiries" and ASTM Standard E1527-05, which address releases and threatened releases of CERCLA hazardous substances, petroleum or petroleum products, and controlled substances. Additional impacts or conditions that may be addressed and/or disclosed are as follows:

a. Flood Hazards. Detailed information regarding any known flood hazards or flooding of the property, and, if the property is located in a flood-plain or on wetlands, a listing of restricted uses (along with the citations) identified in federal, state, or local regulations as required by Executive Orders 11988 and 11990 of May 24, 1977 (41 CFR §102-75.125(f)).

b. Historic or Artistic Value. The specific identification and description of fixtures and related personal property that have possible historic or artistic value (41 CFR §102-75.125(g)).

c. Historic Sites. The historical significance of the property and whether the property is listed, is eligible for, or has been nominated for listing in the National Register of Historic Places or is in proximity to a property listed in the National Register. If the landholding agency is aware of any

effort by the public to have the property listed in the National Register, it must also include this information (41 CFR §102-75.125(h)).

d. Asbestos-Containing Materials. A description of the type, location, and condition of asbestos incorporated in the construction, repair, or alteration of any building or improvement on the property (e.g., fire-proofing, pipe insulation, etc.) and a description of any asbestos control measures taken for the property. Agencies must also provide to the U.S. General Services Administration (GSA) any available indication of costs and/or time necessary to remove all or any portion of the asbestos-containing materials. Agencies are not required to conduct any specific studies and/or tests to obtain this information (41 CFR §§102-75.125(i) and 102-75.335).

e. Lead-Based Paint. A statement indicating whether or not lead-based paint is present on the property. Additionally, if the property is target housing (all housing except housing for the elderly or persons with disabilities or any zero bedroom dwelling) constructed prior to 1978, provide a risk assessment and paint inspection report that details all lead-based paint hazards (41 CFR §102-75.125(j)).

f. Fair Market Value Disclosure. Any appraisal reports indicating or providing the fair market value or the fair annual rental of the property, if requested by the disposal agency (41 CFR §102-75.140(b)).

g. PCB-Containing Equipment. A certification by a responsible person that the property does or does not contain PCB transformers or other equipment regulated by EPA under 40 CFR Part 761, if requested by the disposal agency. If the property does contain any equipment subject to EPA regulation under 40 CFR Part 761, the certification must include the landholding agency's assurance that each piece of equipment is now and will continue to be in compliance with the EPA regulations until disposal of the property (41 CFR §102-75.140(c)).

Chapter 5. Administrative Information

5-1. Distribution. This order is distributed to the division level in FAA Headquarters, with branch level distribution in the Offices of the Chief Counsel (AGC), Budget (ABU), and Airport Planning and Programming (APP), all ATO Service Units, all ATO Service Area Directors, Director of the William J. Hughes Technical Center, and the Director of the Mike Monroney Aeronautical Center.

5-2. Authority to Change This Order.

a. FAA Administrator. The Administrator reserves the authority to establish or change policy, delegate authority, or assign responsibility as necessary.

b. Director of the Office of Environment and Energy (AEE-1). AEE-1 has the authority to add new chapters or change existing chapters that are proposed by organizational elements of FAA after appropriate coordination with internal stakeholder organizations.

c. FAA Organizational Elements. Changes proposed by an organizational element within FAA must be submitted to AEE-1 who will evaluate, or assign a designee to evaluate, the changes for incorporation.

5-3. Acronyms and Definitions. A list of acronyms is provided in appendix A. Definitions have been provided in appendix E.

5-4. Related Publications. Environmental standards and documents referenced in, or related to, this order are listed in appendix G.

Appendix A. Acronym List

ABA	Assistant Administrator for Financial Services
ABU	Office of Budget
AEE	Office of Environment and Energy
AGC	Office of the Chief Counsel
AIP	Airport Improvement Program
ALO	Aviation Logistics Organization
APP	Office of Airport Planning and Programming
ARC	Associate Administrator for Region and Center Operations
ARSR	Air Route Surveillance Radar
ARTCC	Air Route Traffic Control Center
ASTM	ASTM International, originally known as the American Society for Testing and Materials
ATCT	Air Traffic Control Tower
ATO	Air Traffic Organization
CERAP	Combined Center and Radar Approach Control
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CERFA	Community Emergency Response Facilitation Act
CFO	Chief Financial Officer
CFR	Code of Federal Regulations
COTR	Contracting Officer's Technical Representative
DMIS	Directives Management Information System
EDDA	Environmental Due Diligence Audit
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
FAA	Federal Aviation Administration
FAST	FAA Acquisition System Toolset
FMR	Federal Management Regulations
GSA	U.S. General Services Administration
HSCC	Hazardous Substance Contamination Clause
LOB	Line(s) of Business
PCB	Polychlorinated Biphenyl

PRP	Potentially Responsible Party
ORT	Organization Requesting the Transaction
RCRA	Resource Conservation and Recovery Act
RECO	Real Estate Contracting Officer
RQ	Reportable Quantity
SA	Site Assessor
SARA	Superfund Amendments and Reauthorization Act
TR	Technical Reviewer
UST	Underground Storage Tank

Appendix B. Memorandum

An EDDA for the property physically located at:

Lease No.: _____

Facility Identification: _____

Facility Type: _____

City, State: _____

was not conducted. The rationale for not conducting the EDDA is as follows (check one):

_____ Lease renewal.

_____ Termination of leases for property that was leased but never used by the FAA.

_____ Leasing of office space.

_____ Easements or right-of-way access agreements where the FAA is not performing any operations on the property in these agreements.

_____ Waiver – Please see attached documentation.

Proper coordination, as required, has occurred between the Technical Reviewer (TR), Legal Counsel, and the Organization Requesting the Transaction (ORT).

TR's Signature: _____ **Date:** _____
Print Name: _____
Title: _____ **Organization:** _____

Legal Counsel's Signature: _____ **Date:** _____
Print Name: _____
Title: _____ **Organization:** _____

ORT Signature: _____ **Date:** _____
Print Name: _____
Title: _____ **Organization:** _____

Comments:

_____

_____

_____

_____

Appendix C. EDDA Waiver Request Form

ENVIRONMENTAL DUE DILIGENCE AUDIT (EDDA) WAIVER REQUEST

The following questions should be answered by personnel familiar with the property or real property transaction. Please complete all of the information on this form. Answer all questions to the best of one's ability and inspect the site prior to completing this request. Please provide additional information to help support any environmental concerns and forward to the Technical Reviewer for processing.

Location of Property (Check One) ☐ **On Airport** ☐ **Off Airport**		
Location ID:	Facility Type:	City, State:
Type of Transaction: ☐ Purchase ☐ Sale ☐ Lease Acquisition ☐ Lease Termination ☐ FAA as Lessor ☐ Permitted Use ☐ Other:		
Is the lessor a government agency?: ☐ Yes ☐ No ☐ N/A Name:		
Is the Hazardous Substance Contamination Clause (HSCC) in the lease or will it be included in the lease?: ☐ Yes ☐ No ☐ N/A		
Age of facility, if applicable:		
Intended Property Use:		

PART ONE (to be completed by the Site Assessor)

Is there suspected contamination in or around proximity of area?: ☐ Yes ☐ No

If yes, please explain:

_____

_____

_____

Are other FAA facilities located on the subject property or are there FAA power or FAA communication lines traversing the subject property?: ☐ Yes ☐ No

If yes, please explain:

_____

_____

_____

What is the use of the surrounding property?

North: _____

South: _____

East: _____

West: _____

Please explain any known environmental conditions on or adjacent to this site.

_____

_____

_____

Have any of the following equipment and building materials ever been present on site?

Equipment/Material	Yes	No	Comments
Storage Shelters and Other Buildings			
Flammable Storage Lockers			
Batteries (Specify Type/Number)			
Fuel Storage Tanks (Specify Type/Size)			
Drums/Drum Storage (Specify Contents)			
Engine Generators (Specify Type/Size)			
Transformers (Specify Type)			
Regulators			
Capacitors			
Septic Systems			
Mercury-Containing Equipment			
Underground Injection Wells			
Floor Drains			
Oil/Water Separators			
Asbestos-Containing Materials			
Lead-Based Paint			

Does a visual inspection of the site identify any of the following?

	Yes	No	Comments
Soil Staining			
Stressed Vegetation not associated with Herbicide Application			
Vapor or Fumes			
Trash/Soil Piles			
Sheen on Water			
Exterior Paint Degradation			
Monitoring Wells on Property			
Fill Dirt from Unknown Sources			

Have any of the following activities been conducted or incidents occurred at this site?

	Yes	No	Comments
Dumping			
Asbestos/Lead Abatement			
Other Hazardous Material Remediation			

Comments:

If response to any questions in Part One is "yes", please explain below why a Phase I EDDA does not need to be performed at this site (e.g., the battery is a small two-pound battery which has not leaked, or the facility has a non-PCB transformer that shows no evidence of a leak, etc.).

Property/Lease Acquisition Questions: The following questions are for property acquisitions.

(1) For what purpose is the site being obtained? _____

_____

_____

(2) What is the approximate size of the property proposed for lease acquisition?

_____

_____

(3) What are the historical uses of the site? _____

_____

_____

Property Disposal/Lease Termination Questions: The following questions are for property disposals.

(1) Reason for property disposal/lease termination (e.g., site decommissioned, site being relocated).

_____

_____

(2) Are FAA buildings/equipment remaining on-site?: ☐ Yes ☐ No If yes, describe.

_____

_____

(3) Has the site been returned to its original condition?: ☐ Yes ☐ No Please describe.

_____

_____

_____

Site Assessor's Signature: _____ **Date:** _____

Print Name: _____

Title: _____ **Organization:** _____

Telephone: _____ **Date of Inspection:** _____

E-mail Address: _____

PART TWO – APPROVAL/DISAPPROVAL (to be completed by the Technical Reviewer):

Check one of the following:

☐ The property transaction referred to herein has been reviewed by the Technical Reviewer and Legal Counsel and determined to meet criteria for an EDDA waiver due to minimal risk of potential environmental liabilities. **No further action is necessary.**

☐ The property transaction referred to herein has been reviewed and determined to meet criteria for an EDDA waiver because the lease contains a HSCC. No further action is necessary.

☐ The property transaction referred to herein has been reviewed and determined to NOT meet criteria for an EDDA waiver. The Technical Reviewer shall instruct the Organization Requesting the Transaction to initiate a Phase I EDDA for this property. The reason for disapproval is as follows:

_____

_____

_____

PART THREE – CONCURRENCE

The EDDA Waiver Request Form will be prepared by the Organization Requesting the Transaction will be reviewed and signed by the Technical Reviewer, Legal Counsel, and the office responsible for the property. For ATO real property transactions, the responsible office will be the ATO Service Area Director or ATO Vice President (or designee) for the appropriate service unit. For non-ATO Lines of Business (LOB), the responsible office will be the LOB Regional Office.

Technical Reviewer
Signature: _____ **Date:** _____

Print Name: _____

Title: _____ **Organization:** _____

Legal Counsel
Signature: _____ **Date:** _____
Print Name: _____

Title: _____ **Organization:** _____

Office Responsible for the Property
Signature: _____ **Date:** _____

Print Name: _____

Title: _____ **Organization:** _____

PLEASE NOTE, PREPARER MUST PRINT NAME AND PROVIDE SIGNATURE ON PAGE 3.

Appendix D. Statutory and Regulatory Overview

1. CERCLA Liability Provisions.

a. The United States Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) in 1980 to provide funding and enforcement authority for cleaning up the thousands of hazardous waste sites created in the United States in the past and for responding to hazardous substance spills. In 1986, Congress enacted significant revisions to CERCLA through the Superfund Amendments and Reauthorization Act (SARA).

b. CERCLA, as amended by SARA, authorizes the United States Environmental Protection Agency (EPA) to draw upon two basic types of funding resources: (1) the Superfund – the Federal trust fund and (2) responsible parties. CERCLA Section 120(b) defines a "responsible party" as any present or past owner or operator at the site. Under CERCLA, an individual or organization may be held strictly liable for cleaning up hazardous substances at properties that they either currently own or operate or owned or operated at the time of disposal. Strict liability in the context of CERCLA means that a potentially responsible party may be liable for environmental contamination based solely on property ownership and without regard to fault or negligence.

c. In an attempt to address the issue to individuals or groups who acquire property without prior knowledge of contamination, Congress incorporated what is known as the "innocent landowner defense" into CERCLA (Sections 107(b)(3), 101(35)(A) and (B)). The innocent landowner provision states that if a landowner did not know and had no reason to know of releases or threatened releases to the property at the time the landowner acquired the property, and the landowner has not contributed to the contamination of a property, then the landowner is exempt from CERCLA liability.

2. All Appropriate Inquiries.

a. To establish the landowner did not know and had no reason to know of releases or threatened releases, landowners must demonstrate that they conducted "all appropriate inquiries" into the previous ownership and uses of the property consistent with good commercial or customary practices.

b. Section 233 of the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107-118), signed January 11, 2002, which amended CERCLA 101(35)(A) and (B), required EPA to develop guidance as to what constitutes "all appropriate inquiries" for purpose of the innocent landowner defense. In the Federal Register from November 1, 2005 (70 FR 66069), EPA established specific regulatory requirements and standards for conducting all appropriate inquiries, now codified in 40 CFR Part 312.

c. As described in 40 CFR Part 312, standards for "all appropriate inquiries" include:

(1) Results of inquiry by an environmental professional.
(2) Interviews with past and present owners, operators, and occupants.
(3) Reviews of historical sources of information.
(4) Searches for recorded environmental cleanup liens.
(5) Reviews of federal, state, tribal and local government records.

(6) Visual inspections of the facility and of adjoining properties.
(7) Specialized knowledge or experience on the person conducting the inquiry.
(8) The relationship of the purchase price to the value of the property, if the property was not contaminated.
(9) Commonly known or reasonably ascertainable information about the property.
(10) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination.

d. 40 CFR §312.11 further states that the procedures of ASTM International Standard E1527–05, entitled "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process," may be used to comply with the requirements of "all appropriate inquiries."

3. Notice and Disclosure Requirements.

a. The Community Environmental Response Facilitation Act (CERFA) (Public Law 102-426), which amended CERCLA Section 120(h), imposed certain notice and covenant requirements on the sale, by Federal agencies, of property where a hazardous substance has been stored, released, or disposed. The Act further requires the deed of sale or transfer to stipulate that the Federal Government will conduct any remediation necessary.

b. In response to CERCLA Section 120(h), EPA promulgated regulations for the reporting of hazardous substance activity when selling Federal real property (40 CFR Part 373). The Federal Real Property Transfer Regulation requires any department, agency, or instrumentality of the United States that wishes to transfer real property owned by the United States, where hazardous substances were stored for one year or more and known to have been released, or disposed of, to include in the contract, notice of the type and quantity of hazardous substance and notice of the time when storage, release, or disposal took place. This is contingent upon the extent that such information is available from a complete search of the agency files.

c. The Federal Real Property Transfer Regulation does not address leases or easements, as these types of contracts involve a complicated area of real property law and may be affected by specific deed or lease terms and by State common law.

d. Although the scope of the Federal Real Property Transfer Act does not include leases or easements, organizations that operated at a site that did not own the property may still be liable under CERCLA Section 107(a).

4. Individual State Requirements.

a. A number of States impose environmental requirements on the seller of real property where a hazardous substance has been managed or released. The requirements established by these States roughly fall into four general categories:

(1) Actual cleanup of hazardous substances prior to sale.
(2) Notice to the purchaser prior to sale.
(3) Registration/approval by State or local agency.

(4) Hazardous waste management facility notice in deed.

b. Because the State laws pertaining to property transfer are still evolving, it will be necessary to contact State agencies routinely to identify changes in their requirements.

Appendix E. Definitions

1. Abandoned Property: Property that can be presumed to be deserted, or an intent to relinquish possession or control can be inferred from the general disrepair or lack of activity thereon such that a reasonable person could believe that there was an intent on the part of the current owner to surrender rights to the property (see 40 CFR §312.10(b)).

2. Aboveground Storage Tank (AST): All tanks not classified as underground storage tanks, or tanks and associated piping that are more than 90 percent, by volume, aboveground.

3. Acquisition: The act of becoming the owner or holder of an interest in certain real property.

4. Adjoining Properties: Any real property or properties the border of which is (are) shared in part or in whole with that of the subject property, or that would be shared in part or in whole with that of the subject property but for a street, road, or other public thoroughfare separating the properties (see 40 CFR §312.10(b)).

5. All Appropriate Inquiries: Inquiries in accordance with the standards and practices in 40 CFR Part 312 for the purposes of CERCLA §101(35)(B).

6. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended: Imposes on property owners and operators strict, joint and several liability for environmental damage, and provides a limited defense for innocent landowners. The Act also provides EPA with funding and enforcement authority for responding to hazardous substance spills, for cleaning up high-risk, and non-federal hazardous waste sites in the United States.

7. Community Environmental Response Facilitation Act (CERFA): Congress amended CERCLA §120(h) under the Community Environmental Response Facilitation Act (Public Law 102-426) to expedite the sale of federal land that is determined to be uncontaminated (42 United States Code §9620(h)). The amendment is referred to as CERFA and is intended to identify federal land and properties offering the greatest opportunity for reuse and redevelopment, expedite necessary remedial and corrective actions, and make the property available for sale. Under §120(h) of CERCLA, whenever the U.S. government enters into a contract to sell or transfer federal property, a notice must be placed in the contract for sale reporting any hazardous substance that has been stored for one (1) year or more, known to be released, or was disposed of on the property. A similar notice must be placed in the deed, as well as a covenant that all necessary remedial action has been taken by the time of the transfer and ensure the continued liability of the federal government when appropriate.

8. Data Gap: A lack of or inability to obtain information required by the standards and practices listed in subpart C of this part despite good faith efforts by the environmental professional or persons identified under § 312.1(b), as appropriate, to gather such information pursuant to §§ 312.20(e)(1) and 312.20(e)(2) (see 40 CFR §312.10(b)).

9. Date of Acquisition or Purchase Date: The date on which a person acquires title to the property (see 40 CFR §312.10(b)).

10. Disposal: The transfer of ownership and/or other real property rights to another party or parties.

11. Environmental Professional: A person who possesses sufficient specific education, training, and experience necessary to exercise professional judgment to develop opinions and conclusions regarding conditions indicative of releases or threatened releases (see §312.1(c)) on, at, in, or to a property, sufficient to meet the objectives and performance factors in §312.20(e) and (f).

a. An Environmental Professional must:

(1) Hold a current Professional Engineer's or Professional Geologist's license or registration from a state, tribe, or U.S. territory (or the Commonwealth of Puerto Rico) and have the equivalent of three (3) years of full-time relevant experience; or

(2) Be licensed or certified by the federal government, a state, tribe, or U.S. territory (or the Commonwealth of Puerto Rico) to perform environmental inquiries as defined in §312.21 and have the equivalent of three (3) years of full-time relevant experience; or

(3) Have a Baccalaureate or higher degree from an accredited institution of higher education in a discipline of engineering or science and the equivalent of five (5) years of full-time relevant experience; or

(4) Have the equivalent of ten (10) years of full-time relevant experience.

b. An Environmental Professional should remain current in his or her field through participation in continuing education or other activities.

c. The definition of Environmental Professional provided above does not preempt state professional licensing or registration requirements such as those for a professional geologist, engineer, or site remediation professional. Before commencing work, a person should determine the applicability of state professional licensing or registration laws to the activities to be undertaken as part of the inquiry identified in §312.21(b).

d. A person who does not qualify as an environmental professional under the foregoing definition may assist in the conduct of all appropriate inquiries in accordance with this part if such person is under the supervision or responsible charge of a person meeting the definition of an environmental professional provided above when conducting such activities (40 CFR §312.10(b)).

12. Facility:. As defined by CERCLA §101(9), a facility means any building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or any site or area where a hazardous substance has been deposited, stored, disposed of, placed, or otherwise located. It does not include any consumer product in consumer use or any vessel (42 United States Code §9601(9)).

13. Federal Management Regulations (FMR): The government regulations (41 CFR Part 102) that govern and guide federal agencies relative to management and control of property when GSA authorities are being used.

14. Good Faith: The absence of any intention to seek an unfair advantage or to defraud another party; an honest and sincere intention to fulfill one's obligations in the conduct or transaction concerned (40 CFR §312.10(b)).

15. Hazardous Material: Any substance or material that has been determined to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce (49 CFR §172.101). This includes hazardous substances and hazardous wastes.

16. Hazardous Substance:

a. Any material that poses a threat to human health and/or the environment. Typical hazardous substances are toxic, corrosive, ignitable, explosive, or chemically reactive.

b. Any substance designated by EPA to be reported if a designated quantity of the substance is spilled in the waters of the United States or is otherwise released into the environment.

c. The group of substances defined as hazardous under CERCLA §101(14), and that are listed at 40 CFR §302.4.

17. Hazardous Waste: A discarded material that possesses at least one of four characteristics (i.e., ignitability, corrosivity, reactivity, or toxicity), or appears on special lists indicated by EPA in 40 CFR Part 261, Subpart D. Hazardous wastes can pose a substantial or potential hazard to human health or the environment when improperly managed.

18. Innocent Landowner Defense: In CERCLA, the third-party defense, often called the "innocent landowner" provision, provides a narrow exemption from liability associated with ownership of the land by claiming the landowner made a good faith effort to discover any contamination prior to acquisition. The elements of the defense are found in CERCLA §§101(35) and 107(b)(3) [42 United States Code §9601(35) and §9607(b)(3)].

19. Joint and Several Liability: A legal concept, under CERCLA, that relates to the liability of more than one potentially responsible party for site cleanup and related costs. For a site that became contaminated over the years, all current and previous owners, operators, or users could be considered potentially liable for the entire cost of cleaning up the site.

20. Lease Termination: To end the action of renting real property from another party.

21. Liability: The state of being obligated according to law. Environmental liability refers to the state of being obligated to address through positive actions environmental factors or issues. This may include requirements to fund site remediation or compliance with environmental regulations.

22. Office Space: Space that provides an environment suitable for an office operation. There are two categories of office space: primary office space and support space. Primary office space is the personnel-occupied area in which an activity's normal operational functions are performed. Support space includes space for all secondary/shared workstations, extraordinary circulation space, and space

for those specific mission needs outside the agency's requirements for housing personnel. Typical office standard space is constructed with the following finishes: carpet, lights, ceiling, HVAC and painted finished walls.

23. Organization Requesting the Transaction (ORT): Any FAA organization, including national program offices, which requests a real property transaction.

24. Personal Property: Any property that does not fit into the definition of real property; movable objects not permanently affixed to and part of real estate.

25. Potentially Responsible Party (PRP): Any individual or company—including owners, operators, transporters or generators—potentially responsible for, or contributing to a spill or other contamination. Whenever possible, through administrative and legal actions, EPA requires PRPs to clean up hazardous sites they have contaminated.

26. Real Property: Any interest in land under the control of federal agencies, together with permanently attached buildings, improvements, structures, and fixtures located thereon (including prefabricated movable structures, such as equipment shelters). Excepted are minerals in lands and crops.

27. Real Property Transaction: An act of two or more parties, or the law, by which the title or an interest, benefit, or right to property is conveyed from one person/entity to another. This includes acquisition, sale, lease, eminent domain, disposal and foreclosure.

28. Relevant Experience: As used in the definition of environmental professional, *relevant experience* means: participation in the performance of all appropriate inquiries investigations, environmental site assessments, or other site investigations that may include environmental analyses, investigations, and remediation which involve the understanding of surface and subsurface environmental conditions and the processes used to evaluate these conditions and for which professional judgment was used to develop opinions regarding conditions indicative of releases or threatened releases (see 40 CFR §312.1(c)) to the subject property (40 CFR §312.10(b)).

29. Remediation: Actions taken to remove or contain a toxic or hazardous substance release. Activities may include isolating, enclosing, encapsulating, treating or removing site contamination.

30. Reportable Quantity (RQ): Quantity of a hazardous substance that triggers reporting under CERCLA. If a substance exceeds its RQ, the release must be reported to the National Response Center, the State Emergency Response Commission (SERC), and community emergency coordinators for areas likely to be affected.

31. Resource Conservation and Recovery Act (RCRA): The federal regulation that provides "cradle-to-grave" control of hazardous waste by imposing management requirements on generators and transporters of hazardous wastes and upon owners and operators of treatment, storage, and disposal facilities.

32. Site Assessor (SA): A qualified FAA employee or a contractor who coordinates with the TR to determine the scope of the EDDA, conducts the EDDA, develops recommendations and provides reports.

33. Stakeholder: Any organization, governmental entity, or individual that has an interest (or stake) in or who may be affected by a given approach or issue (such as environmental regulation, pollution prevention, energy conservation).

34. Superfund: The program operated under the legislative authority of CERCLA and SARA that provides for liability, compensation, cleanup and emergency response for hazardous substances released into the environment, and the cleanup of hazardous waste disposal sites.

35. Technical Reviewer (TR): A qualified FAA employee who ensures that the contractors hired to conduct an EDDA are qualified, provides the contractors with guidance on FAA requirements for an EDDA, develops and/or approves the scope to be used by the Site Assessor, and coordinates contractor site visits.

36. Underground Storage Tank (UST): A tank and associated piping that are 10 percent or more below the surface of the ground, and which are used for the storage of a regulated substance (e.g., gasoline, petroleum products, chemicals or waste oil). EPA excludes: tanks used for heating purposes, septic tanks, surface impoundment, and stormwater or wastewater collection systems from the federal UST regulation. State regulations, however, vary and may mandate some or all of the tanks excluded by EPA.

Appendix F. Example Phase I EDDA Table of Contents and Report Format

Figure F-1. Example Phase I EDDA Table of Contents

1.0 Summary

2.0 Introduction
- 2.1 Purpose
- 2.2 Detailed Scope-of-Services
- 2.3 Significant Assumptions
- 2.4 Limitations and Exceptions
- 2.5 Special Terms and Conditions
- 2.6 User Reliance

3.0 Site Description
- 3.1 Location and Legal Description
- 3.2 Site and Vicinity General Characteristics
- 3.3 Current Use of the Property
- 3.4 Descriptions of Structures, Roads, Other Improvements on the Site (including heating/cooling system, sewage disposal, source of potable water)
- 3.5 Current Uses of the Adjoining Properties

4.0 User Provided Information
- 4.1 Title Records
- 4.2 Environmental Liens or Activity and Use Limitations
- 4.3 Specialized Knowledge
- 4.4 Commonly Known or Reasonably Ascertainable Information
- 4.5 Valuation Reduction for Environmental Issues
- 4.6 Owner, Property Manager, and Occupant Information
- 4.7 Reason for Performing Phase I
- 4.8 Other

5.0 Records Review
- 5.1 Standard Environmental Record Sources
- 5.2 Additional Environmental Record Sources
- 5.3 Physical Setting Source(s)
- 5.4 Historical Use Information on the Property
- 5.5 Historical Use Information on Adjoining Properties

6.0 Site Reconnaissance
- 6.1 Methodology and Limiting Conditions
- 6.2 General Site Setting
- 6.3 Exterior Observations
- 6.4 Interior Observations

7.0 Interviews
- 7.1 Interview with Owner
- 7.2 Interview with Site Manager
- 7.3 Interviews with Occupants
- 7.4 Interviews with Local Government Officials
- 7.5 Interviews with Others

8.0 Findings

9.0 Opinion

10.0 Conclusions

11.0 Deviations

12.0 Additional Services

13.0 References

14.0 Signature(s) of Environmental Professional(s)

15.0 Qualification(s) of Environmental Professional(s)

16.0 Appendices
- 16.1 Site (Vicinity) Map
- 16.2 Site Plan
- 16.3 Site Photographs
- 16.4 Historical Research Documentation (aerial photographs, fire insurance maps, historical topographical maps)
- 16.5 Regulatory Records Documentation
- 16.6 Interview Documentation
- 16.7 Special Contractual Conditions between User and Environmental Professional
- 16.8 Qualification(s) of the Environmental Professional(s)

* Report outline will vary according to site conditions.

Appendix G. Environmental Standards and Resources

1. 40 CFR, Protection of Environment.

a. 40 CFR Part 261, Identification and Listing of Hazardous Waste.

b. 40 CFR Part 302, Designation, Reportable Quantities, and Notification.

c. 40 CFR Part 312, Innocent Landowners, Standards for Conducting All Appropriate Inquiries

d. 40 CFR Part 373, Reporting Hazardous Substance Activity When Selling or Transferring Federal Real Property.

e. 40 CFR Part 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions.

2. 41 CFR Part 102, Federal Management Regulation.

3. ASTM International.

a. ASTM Standard E1527-05, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.

b. ASTM Standard E1903-97(2002), Standard Guide for Environmental Site Assessments: Phase II Environmental Site Assessment Process.

4. Executive Orders.

a. Executive Order 11988, Floodplain Management.

b. Executive Order 11990, Protection of Wetlands.

5. FAA Orders.

a. Order 1050.10C, Prevention, Control, and Abatement of FAA Environment Pollution.

b. Order 1050.17, Airway Facilities Environmental and Safety Compliance Program.

c. Order 1050.20A, Airway Facilities Asbestos Control.