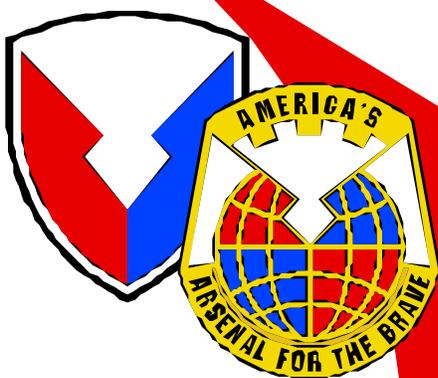
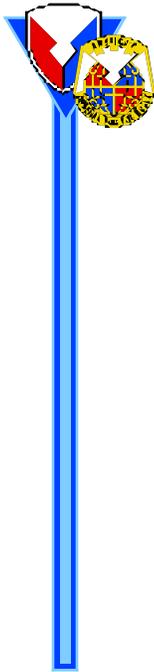


Presented by:
Stan Lowe
Environmental Quality Division
HQ AMC

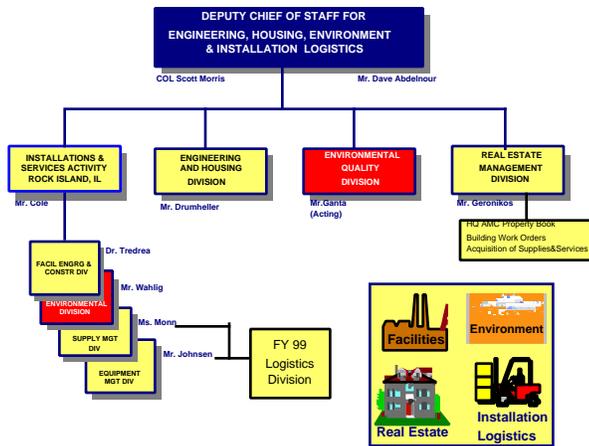
Army
Materiel
Command

Environmental Requirements
Affecting Real Property Activity
5 August 1999

AMC – Relevant, Responsive & Ready!

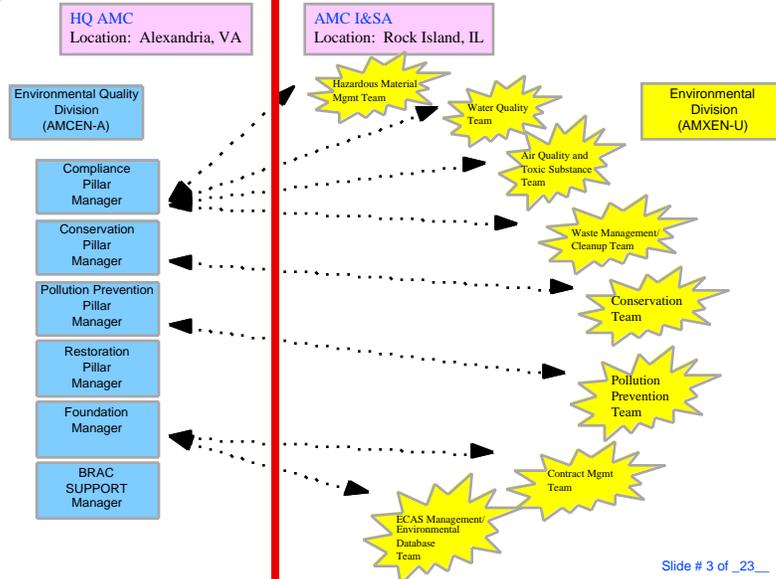



DCSEN Organization





DCSEN - Environmental Virtual Team Concept



National Environmental Policy Act

- PL 91-190; Title 40 CFR Part 1500
- AR 200-2, Environmental Effects of Army Actions, 23 December 1988
- Proposed Draft Revised AR 200-2
 - ❖ Seven years in the making.
 - ❖ Over 50 categorical exclusions proposed
 - ☀ 20 relate to Real Estate/Property activities
- AMC EA Guidance for Real Estate
- BRAC Manual on NEPA (provides guidance on reuse and disposal)



National Historic Preservation Act

- ↪ **Title 36 CFR Part 800**
- ↪ **AR 200-4**
- ↪ **Pamphlet 200-4, Cultural Resources
Management, 1997**
- ↪ **Proposed Army Counterpart Regulations
to 36 CFR Part 800**

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Endangered Species Act of 1973 (ESA)

- ↪ **16 USC 1531-1544**
- ↪ **Title 50 CFR Part 402**
- ↪ **AR 200-3, Natural Resources--Land, Forest and
Wildlife Management, February 1995**

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Clean Air Act Conformity

- ✧ Section 176(c) requires Federal agency activities to conform to the State Implementation Plan.
- ✧ Army policy requires a Record of Non-Applicability (RONA) for actions that are exempt.
- ✧ Conformity Rule only pertains to nonattainment or maintenance areas.

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Migratory Bird Treaty Act (MBTA)



- ✧ Enacted 1918
- ✧ Makes it unlawful to kill, capture, harass, purchase or otherwise “take” any migratory bird without authorization.
- ✧ Migratory Bird: any bird whatever its origin and whether or not raised in captivity, which belongs to a species listed in §10.13 or which is a mutation or a hybrid of any such species, including any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consist, or is composed in whole or part, of any such bird or any part, nest, or egg thereof.
- ✧ Examples: Black-capped chickadees, crows, ducks, hummingbird, tanager.

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Coastal Zone Management Act (CZMA)

- ✧ Purpose of the Act is to ensure that projects that are to occur in a State coastal zone (CZ) are consistent with the State's approved Coastal Zone Management Program.
- ✧ Coastal Zones (CZ) are established by Coastal States.
- ✧ CZs are tidal, normally extends inward to include the first dune and usually does not extend past a man-made structure such a road.
- ✧ Section 304(1) says, "Excluded from the CZ are lands that use of which is by law subject solely to the discretion of or which is held in trust by the Federal government, its officers, or agents."
- ✧ Military installations within the CZ do not have to comply unless their activity would impact the CZ off the installation.

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Environmental Justice

- ✧ NEPA documentation must contain an analysis of the impacts of the proposed action and alternatives considered, including impacts that may have disproportionately high adverse human health or environmental effects on populations covered by E.O. 12898

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PROTECTION OF CHILDREN

↗ E.O 13045, Protection of Children from Health Risks and Safety Risks (April 21, 1997).

As part of NEPA process, disproportionate risks to children that result from environmental health risks or safety risks should be considered and addressed during the identification and analysis of the potential environmental socioeconomic effects of the proposed action and alternative.

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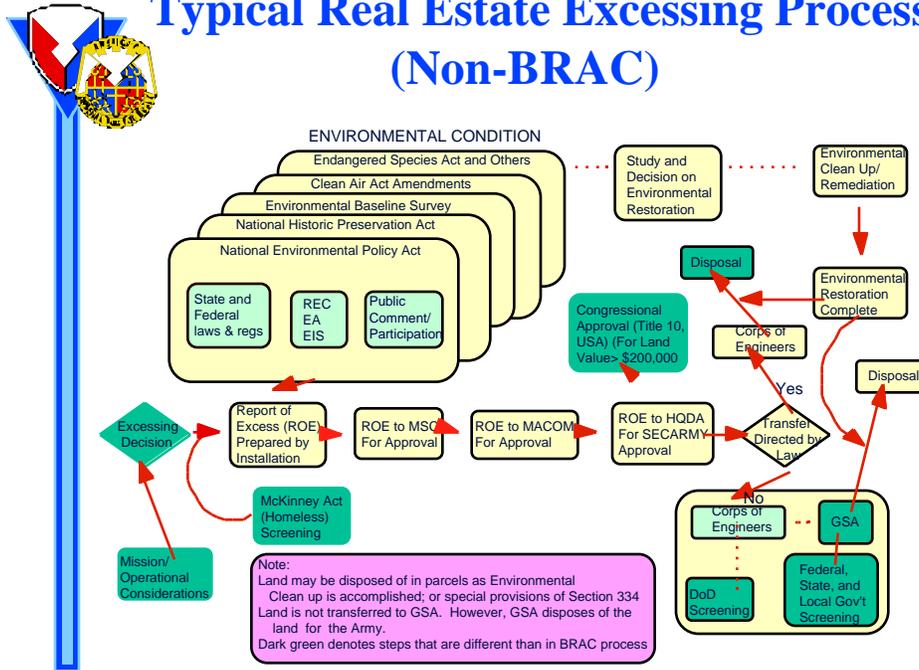


Installation Plans

- Real Property Master Plan
- Integrated Natural Resource Management Plan (INRMP)
- Integrated Cultural Resource Management Plan (ICRMP)
- Endangered Species Management Plan (ESMP)

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Typical Real Estate Excessing Process (Non-BRAC)



DoD Directive 4715.3 - Environmental Conservation Program

Before disposing of DoD properties, the DoD component with responsibility for the property involved shall:

- ✦ Identify all significant natural and cultural resources, and determine whether they may be affected by the disposal action.
- ✦ Provide disposal plans to appropriate agencies, organizations, and individuals, and provide a reasonable opportunity for review and comment before proceeding with the disposal action.
- ✦ Ensure that “museum objects and documents” are identified and preserved.
- ✦ Disposed of the property IAW any other legal requirements.



Disposal of Non-BRAC Installations

- ↳ General Services Administration (GSA) brokers disposal (exception: special legislation)
- ↳ 3 MSCs (AMCOM, SBCCOM, IOC) and 19 installations involved or will be involved
- ↳ Primary Concerns:
 - ❖ Budgeting and programming funds; scheduling
 - ❖ Working with EPA, State, GSA, other regulatory agencies, local groups and citizens (to include Native Americans)
 - ❖ Congressional interest
 - ❖ Environmental documents, requirements and coordination
 - ❖ Early transfers under Section 334
 - ❖ Institutional controls (long term monitoring)

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Environmental Baseline Survey (EBS)

- ↳ EBSs are prepared for acquisition, outgrants, and disposal.
- ↳ EBSs are not required for reassignments within DA, easements, licenses, and permits.
 - however, may be performed if desired by the Army or where extraordinary circumstances exist.

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Purpose of an EBS

- For Disposal:
 - ❖ To identify and assess the condition of real property at the time of transfer out of the government's possession.
 - ❖ To identify potential environmental contamination liabilities.
 - ❖ To fulfill the government's requirements under 42 USC 9620(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) to:
 - ❖ identify the type and quantity of hazardous substances stored, released, or disposed of on any real property being sold or otherwise transferred from federal ownership.
 - ❖ For Acquisition:
 - ❖ To preserve the CERCLA innocent landowner defense

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Applicable Guidance Documents

- AR 200-1, para 15-6
- Memo SFIM-AEC-EQN, 7JUN99, SUBJ: GUIDELINES FOR EBS Supporting Utility Privatization--Action Memo (with 4 enclosures):
 - ❖ Model SOW for EBS
 - ❖ Frequently Asked Questions No.2: EBSs and Other Environmental Concerns Related to Privatization of Utilities
 - ❖ Environmental Conditions of Property Mapping Guidelines
 - ❖ EBS Recommended Outline
- DOD BRAC Cleanup Plan Guidebook, Fall 1995/Sep 1996 Revision
- Army Materiel Command FOST/FOSL Guidance (February 1998)

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EBS Investigation



- Consists of, at minimum, the following:
- ❖ detailed search of Federal records
 - ❖ review of recorded chain of title documents
 - ❖ review of aerial photographs
 - ❖ visual inspection of property and adjacent property
 - ❖ physical inspection of adjacent real property
 - ❖ review of reasonably obtainable Federal, State, and local government records of adjacent property
 - ❖ interviews with current or former employees



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Findings of Suitability

- Finding of Suitability to Transfer (FOST)
- Finding of Suitability for Early Transfer (FOSET)
- Finding of Suitability to Lease (FOSL)
- Environmental Condition of Property (ECOP)

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Delegation of Authority 9-98

AMC DCS Engineering, Housing, Environment, and Installation Logistics Signature Authority		
	BRAC	Non-BRAC
FOST	DoD ECP Categories 1- 4, minus ETA*	DoD ECP Categories 1- 3, minus ETA*
FOSL	DoD ECP Categories 1- 7	DoD ECP Categories 1- 3
ECOP	All	All

* ETA - Early Transfer Action authorized under Section 334 of the FY97 Defense Authorization Act. FOSET is prepared for an ETA and is signed by the DESOH.

** Signed by Gen Wilson, 19 Jun 98

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DoD Environmental Categories of Property

- 📌 **Category 1:** Areas where no release or disposal of hazardous substances or petroleum products has occurred.
- 📌 **Cat 2:** Areas where only release or disposal of petroleum products has occurred.
- 📌 **Cat 3:** Areas where release, disposal, and/or migration of hazardous substances has occurred, but at concentrations that do not require a removal or remedial response.
- 📌 **Cat 4:** Areas where release, disposal, and/or migration of hazardous substances has occurred, and all removal or remedial actions to protect human health and the environment have been taken.
- 📌 **Cat 5:** Areas where release, disposal, and/or migration of hazardous substances has occurred, and all removal or remedial actions are underway, but all required remedial actions have not yet been taken.
- 📌 **Cat 6:** Areas where release, disposal, and/or migration of hazardous substances has occurred, and all removal or remedial actions are underway, but all required remedial actions have not yet been taken.
- 📌 **Cat 7:** Areas that are not evaluated or require additional evaluation.

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Disposal of Buildings/Facilities

- EBS not required when underlying land not included.
However:
 - ❖ **Must generate sufficient info to make determination that asbestos, PCBs or other Hazardous substances not present in structures.**
 - ❖ **Operations conducted inhouse: Suggest a SOP be developed to protect health, welfare, safety of government demolition workers, potential nearby people, and ensure proper disposal of waste material.**
 - ❖ **Operations contracted out: Instead, require contract performance IAW the law, etc. Contract and solicitation should advise of potential or actual knowledge of hazardous conditions.**