



Jurisdictional Land Use Control Implementation Training

Hosted by Fort Ord Reuse Authority (FORA)

Presented by FORA ESCA Team

December 12, 2018

Presented to City of Del Rey Oaks & Monterey County



Introduction and Overview

Seminar Purpose:

- Provide Land Use Control (LUC) implementation information, tools and methods
- This seminar will provide:
 - Overview of Final LUCs Remedy
 - Overview of LUCs/Institutional Controls
 - LUCs Operations and Maintenance Requirements





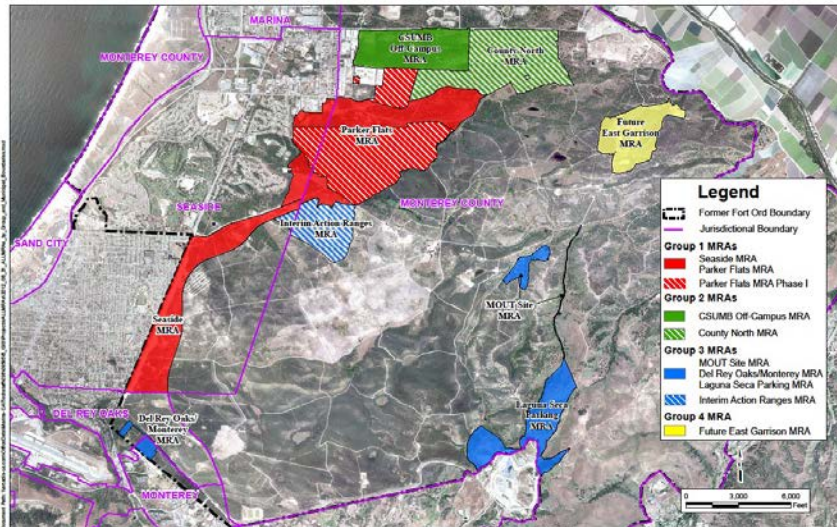
ESCA Overview

- Army and FORA entered ESCA – 2007
- ESCA mechanism allows the US government to provide funding to FORA for munitions removal
- FORA ESCA Remediation Program addresses residual safety issues from former US Army munitions training on future economic development parcels
- FORA ESCA Responsibilities:
 - Abide by state and federal Superfund regulations
 - Meet the same munitions remediation standards as the Army
 - Maintain a community outreach program
 - Monthly programmatic reporting to EPA

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ESCA Munitions Response Areas by Group



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LUC Final Remedy Description

- LUCs selected as final remedy in RODs
- The LUCs remedy:
 - Munitions recognition and safety training
 - Construction support by UXO-qualified personnel
 - Restrictions prohibiting residential use in the non-residential development and habitat reserve areas
 - Access management measures in areas designated for habitat reserve⁽¹⁾
 - Restrictions against inconsistent uses in areas designated for habitat reserve⁽²⁾
- Long-Term Management Measures (LTMM) will also be implemented including:
 - Existing land use restrictions
 - Annual monitoring and reporting
 - Five-year review reporting



Notes:
(1) Access management measures applicable to Group 1 and Group 4 MRAs
(2) Restrictions against inconsistent use applicable to Group 1, Group 4, and IAR MRAs

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Land Use Controls - Purpose

- ESCA munitions cleanup completed:
 - All detected munitions removed
 - Though not expected, munitions may remain present
- LUCs remedy selected to address remaining MEC human health and environmental risks
- LUCs implementation
 - Property owners obligated to maintain LUCs
 - Per federal regulations, LUCs must be implemented
- Non-compliance liability

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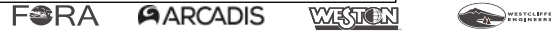
LUCIP/OMP Roles and Responsibilities

Organization	Roles & Responsibilities	Authority
Army BRAC	<ul style="list-style-type: none"> Ensure protectiveness of remedy Army Obligations per ESCA 	<ul style="list-style-type: none"> FFA ESCA
EPA Region 9	<ul style="list-style-type: none"> Lead regulatory agency 	<ul style="list-style-type: none"> FFA / AOC
DTSC	<ul style="list-style-type: none"> Regulatory concurrence CRUP enforcement 	<ul style="list-style-type: none"> FFA / AOC CRUP MOA w/DTSC
FORA	<ul style="list-style-type: none"> LUC remedy implementation Annual LUC status reporting 	<ul style="list-style-type: none"> AOC ESCA MOA w/DTSC
County & Cities	<ul style="list-style-type: none"> Enforce Digging & Excavation Ordinance Maintain and enforce deed restrictions Maintain LUC remedy Annual LUC monitoring and reporting 	<ul style="list-style-type: none"> Municipal Code MOA w/DTSC
MPC & CSUMB	<ul style="list-style-type: none"> Maintain and enforce deed restrictions Maintain LUC remedy Annual LUC monitoring and reporting 	<ul style="list-style-type: none"> MOA w/DTSC
Property Owners	<ul style="list-style-type: none"> Comply with LUCs, deed restrictions, CRUP 	<ul style="list-style-type: none"> Property Deed CRUP

FFA = Federal Facility Agreement
 AOC = Administrative Order on Consent
 MOA = Memorandum of Agreement

ESCA = Environmental Services Cooperative Agreement
 CRUP = Covenant to Restrict Use of Property
 LUC = Land Use Control

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LUC Operation and Maintenance (LUC O&M)

LUCIP/OMP Section 5: LUC Operation & Maintenance

- Presents responsibilities for actions to facilitate long-term compliance with LUC remedy objectives
- Responsibilities include implementing, monitoring, inspection and reporting, and enforcement
- Identifies specific LUC implementation responsibilities by organization
 - FORA responsibilities
 - County, Cities, MPC and CSUMB responsibilities
 - Property recipient responsibilities (property owners)
 - Army responsibilities



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LUC O&M Responsibilities: CSUMB, MPC, County, and Cities

- ESCA property comes with obligation to maintain LUCs
- Land use decisions are made by jurisdictions
 - Base Reuse Plan lays out the template for reuse
 - Jurisdictions make final reuse decisions
- Jurisdiction responsibilities in implementing LUCs
 - Annual and on-going monitoring and reporting requirements
 - Property transfer requirements
 - Project and activity specific requirements (construction support, use restrictions)
 - Suspect munitions item finds responsibilities
- Property owner responsibilities in implementing LUCs
 - Jurisdictions, as property recipients, must comply with landowner responsibilities

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LUC O&M Requirements: MPC, CSUMB, County, and Cities

- MEC Recognition and Safety Training (County and Cities)
 - Annual property owner notification of training requirements
- Construction Support (County and Cities)
 - Monitor and enforce excavation permit requirements under the digging and excavation ordinance
 - Consultation with Army, EPA and DTSC on construction support requirements prior to issuing excavation permits
 - Ensure Construction Support After Action reporting
 - Annual monitoring and reporting of construction support activities
- Use Restrictions: Residential & Habitat Reserve
 - Maintain use restrictions in property deeds & monitor compliance
- Annual LUC Monitoring and Reporting
 - Conduct annual LUC inspections and status reporting

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LUC O&M Requirements: Property Recipient

- **MEC Recognition and Safety Training**
 - Ensure property users are aware of and comply with training requirements
 - Annually deliver copy of MEC Safety Guide to site workers
 - Document and maintain records of compliance with training requirements
- **Construction Support**
 - Comply with excavation permitting and construction support requirements
 - Retain UXO contractor to provide construction support services, when required
- **Use Restrictions: Residential & Habitat Reserve**
 - Comply with use restrictions during use of the property
 - Maintain use restrictions through future property transfers
- **Annual LUC Monitoring and Reporting**
 - Cooperate with County and Cities in conducting annual inspections of property to verify compliance with LUCs, deed restrictions, and CRUP

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LUC O&M Activities: MPC, CSUMB, County, and Cities

- **Yearly & Ongoing Requirements**
 - Annual Landowner Notifications (Cities, County)
 - Annual LUC Compliance Monitoring and Reporting
 - Site worker Munitions Safety Training Requirements
 - Maintain Property Use Restrictions
- **Property Transfer Requirements**
 - Maintain Use Restrictions in Deeds
- **Project and Activity Specific Requirements**
 - Construction Support Requirements (Decision Tree)
 - Construction Support Templates (On Call Construction Support Plan)
- **Suspect Munitions Item Finds Responsibilities**
 - Response to Suspect Munitions Finds

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LUC Operation and Maintenance

Yearly and Ongoing Requirements

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Yearly Activities: Notifications and Munitions Safety Training

- Annual Notifications to Property Owners
 - **County and Cities** required to notify **property owners** of requirements of Digging and Excavation Ordinance, including munitions recognition and safety training
- Annual Munitions Safety Training Requirements
 - **Property owners** required to deliver a copy of MEC Safety Guide and Army's MEC Safety Alert to all personnel conducting ground-disturbing or intrusive activities
- Annual Reporting
 - **MPC, CSUMB, County and Cities** required to monitor training compliance and report annually



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Ongoing Activities: Worker Munitions Safety Training

- MEC Safety Guide & Army’s MEC Safety Alert pamphlet
 - Required to be provided annually to all workers conducting ground-disturbing or intrusive activities
- Web-based Munitions Recognition and Safety Training (www.fortordsafety.com)
 - Required for workers involved in projects requiring construction support
 - Available (and recommended) for all workers
- Construction Support Site-Specific Worker Training
 - Required for workers involved in projects under a construction support plan



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Yearly Activities: Annual Land Use Compliance Monitoring

- Annual Review of Property Filings
 - **MPC, CSUMB, County and Cities** required to review deeds, deed amendments and other property filings to ensure use restrictions, LUCs and State CRUP restrictions maintained and report annually
- Annual Property Inspections
 - **MPC, CSUMB, County and Cities** required to perform annual physical property inspections to ensure use restrictions, LUCs and State CRUP restrictions maintained
- Annual LUC Reporting
 - **MPC, CSUMB, County and Cities** required to report annually as component of Fort Ord Land Use Covenant Annual Monitoring Report

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Property Transfer Responsibilities

- FORA Planned Property Conveyance
 - FORA notification to Army, EPA and DTSC of intended transfer
 - Notice to describe how LUCs will continue to be implemented
 - FORA to ensure use restrictions, LUCs and State CRUP restrictions maintained in deeds
- Jurisdiction and Future Property Conveyances
 - **Property owner (including MPC, CSUMB, County and Cities)** notification to recipient of the property use restrictions and LUCs and State CRUP compliance requirements
 - **County and Cities** monitor property transfers to ensure use restrictions, LUCs and State CRUP restrictions maintained in future deeds
 - **MPC, CSUMB, County and Cities** annual notification to Army, EPA and DTSC of property transfers as component of Fort Ord Land Use Covenant Annual Monitoring Report



LUC Operation and Maintenance

Project & Activity Specific Responsibilities



Project & Activity Specific Requirements

- Use Restrictions: Residential & Habitat Reserve
 - **Property owner (including MPC, CSUMB, County and Cities)** ensure planned project is in compliance with applicable residential and habitat reserve area use restrictions
- Digging and Excavation Ordinance
 - **Property owner (including MPC, CSUMB, County and Cities)** comply with excavation permitting requirements for all projects and activities
- Construction Support
 - **Property owner and/or land user** retains UXO contractor to provide construction support services

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ESCA Property MEC Removal Areas and Results DRO/MRY MRA Location

- Del Rey Oaks (DRO)/Monterey MRA
- 34 acres
- Jurisdictions - City of DRO/Monterey
- Land Use
 - Non-residential development
 - Habitat Management
 - South Boundary Road



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MEC Construction Support Levels DRO/MRY MRA

- **Low** probability of encountering MEC
 - Development Reuse Area (Parcel E29.1)
 - Habitat management Reuse Area (Parcel L6.2)
 - South Boundary Road and Associated Right of Way Reuse Area (Parcels L20.13.1.2 & L20.13.3.1)

Table 2
 Current Probability of Encountering MEC by Parcel

Transfer Parcel No.	Approx. Acreage ¹	Planned Reuse ²	MRS Site number	MRS Site Name	Past MRS Use	MRS Site Investigation Status ³	Probability of Encountering MEC ⁴
DRO/Monterey MRA							
E29.1	23	Business Park / Light Industrial and Office / Research & Development	MRS-43 ⁵	South Boundary Area	Artillery Training (37mm projectiles)	MEC removal to 4 feet bgs and/or to depth of detection completed.	Low
L6.2	6	Habitat Management					Low
L6.2	1.5	Habitat Management	Outside MRS boundary	n/a	None	None	Low
L20.13.1.2	0.245	South Boundary Road and Associated Right of Way	Outside MRS boundary	n/a	None	None	Low
L20.13.3.1	5	South Boundary Road and Associated Right of Way	Outside MRS boundary	n/a	None	None	Low



Source: Final Group 3 LUCIP/OMP Table 2 & Figure 5

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Laguna Seca Parking MRA

- Del Rey Oaks (DRO)/Monterey MRA
- 34 acres
- Jurisdictions - City of DRO/Monterey
- Land Use
 - Non-residential development
 - Habitat Management
 - South Boundary Road



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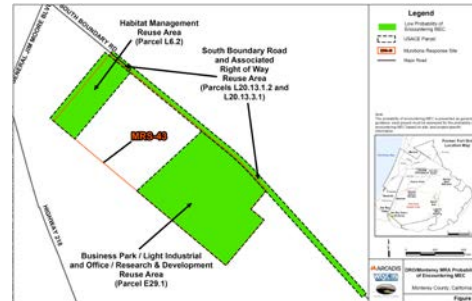


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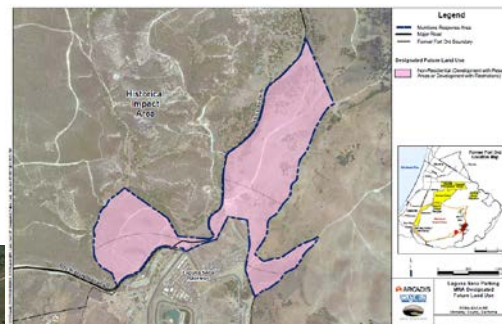
Source: Final Group 3 LUCIP/OMP Table 2 & Figure 5

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Laguna Seca Parking MRA Location

- Laguna Seca Parking MRA
- 276 acres
- Jurisdiction - Monterey County
- Land Use
 - Open space/recreation
 - Non-residential development

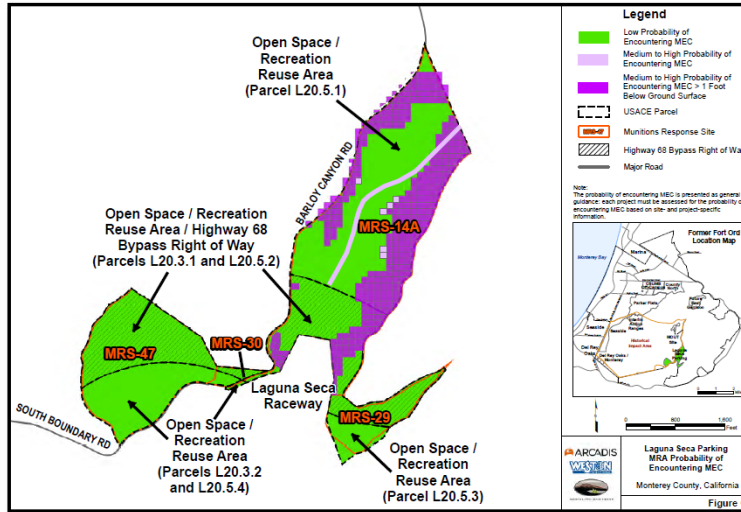


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MEC Construction Support Levels Laguna Seca Parking MRA

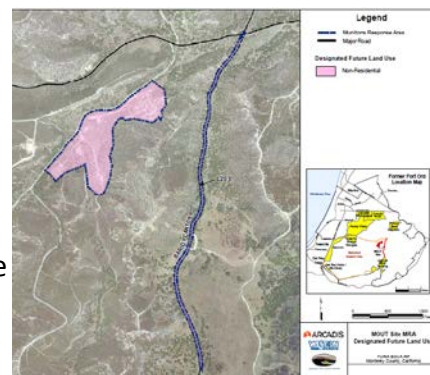


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MOUT Site MRA Location

- Military Operations in Urban Terrain MRA
- 61 acres
- Jurisdictions – MPC and Monterey County
- Land Use
 - MOUT Training Area
 - Barloy Canyon Road and associated right of way
 - Planned uses are consistent with the current site usage

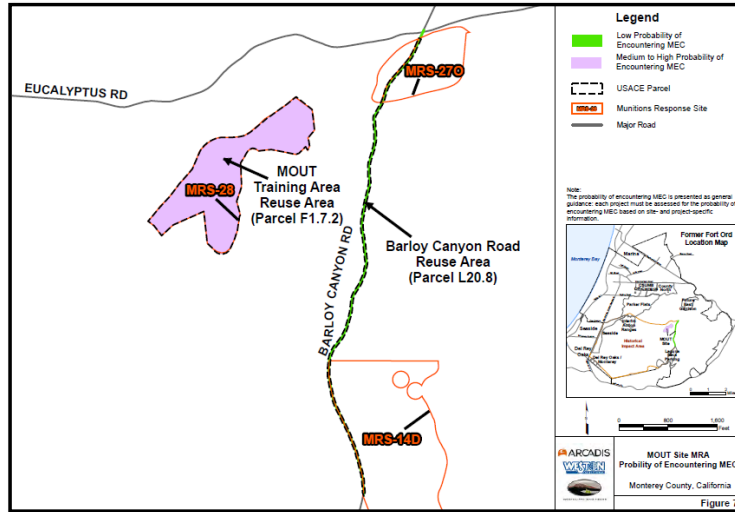


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MEC Construction Support Levels MOUT Site MRA



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Parker Flats Phase II MRA Location

- Parker Flats Phase II MRA
- 423 acres
- Jurisdictions - City of Seaside, Monterey County, and MPC
- Land Use
 - Future residential
 - Non-residential development
 - Habitat reserve



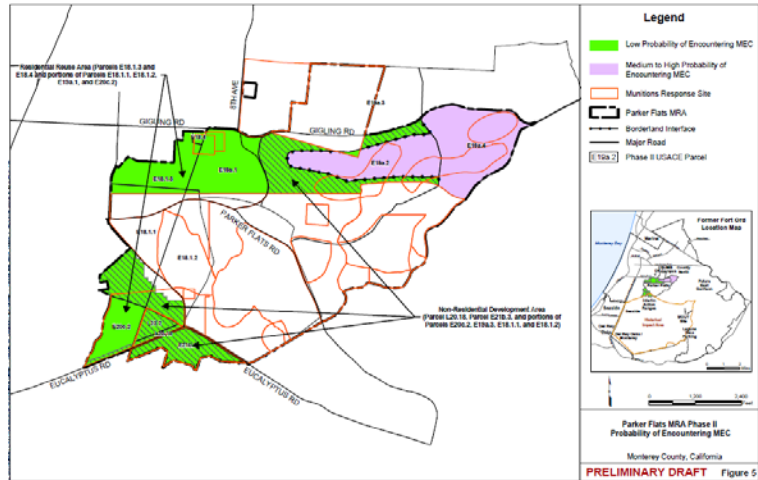
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MEC Construction Support Levels Parker Flats Phase II MRA

- Residential reuse areas_
 - Low Probability
- Non-residential development reuse areas_
 - Low Probability
- Habitat reserve reuse areas
 - Low Probability - Trails plus 5 foot buffer
 - Medium to High Probability outside of 5 foot buffer along trails

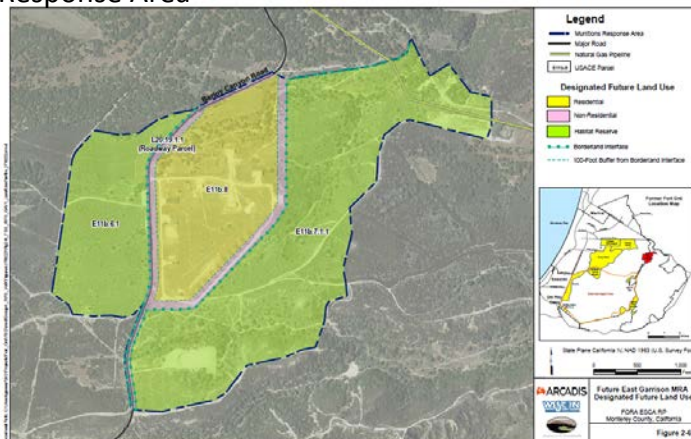


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FEG MRA Location

- Future East Garrison Munitions Response Area
- 252 acres
- Jurisdiction - Monterey County
- Land Use
 - Future residential
 - Non-residential
 - Habitat Reserve

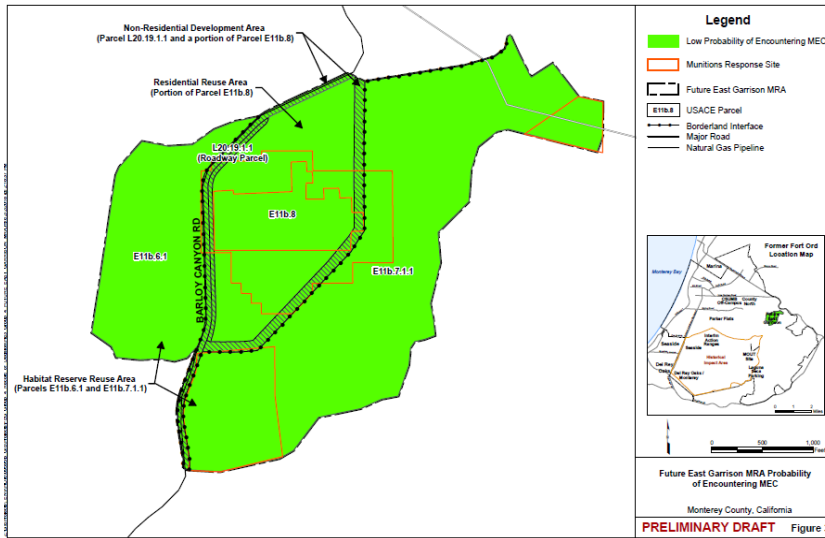


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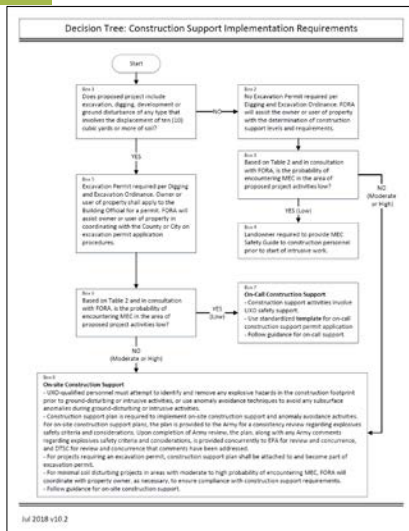
MEC Construction Support Levels FEG MRA



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Construction Support Implementation Requirements Decision Tree



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Source: Group 3 LUCIP/OMP Appendix H





MEC Construction Support: Minimal Soil Disturbing Activities

Minimal soil disturbing activities in areas with low probability of encountering MEC ⁽¹⁾



1. Provide site workers with MEC Safety Guide
2. Contact local law enforcement (911) in the unlikely event a suspect munitions item is encountered
3. Local law enforcement may request military EOD response to address suspect munitions items



Note: (1) Area with a moderate to high probability of encountering MEC require On-site Construction Support or Anomaly Avoidance.

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MEC Construction Support: On-Call Construction Support Requirements

On-Call Construction Support⁽¹⁾



1. Excavation Permit
2. On-Call Construction Support Plan
3. Worker munitions safety training
4. UXO support contractor on stand-by to assist if suspect munitions item is encountered
5. Local law enforcement responds and may request military EOD response to MEC or suspect MEC items



Note: (1) More than 10 cu/yds soil disturbance in areas with a low probability of encountering MEC.

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MEC Construction Support: Anomaly Avoidance Support Requirements

Anomaly Avoidance Support⁽¹⁾



1. Excavation Permit⁽²⁾
2. Anomaly Avoidance Plan (abbreviated On-Site Construction Support Plan)
3. Worker munitions safety training
4. UXO support contractor uses anomaly avoidance techniques to avoid any subsurface anomalies during ground-disturbing or intrusive activities
5. In unlikely event MEC or suspect MEC items encountered, local law enforcement responds and may request military EOD response

Notes:

- (1) Any soil disturbance in areas with a moderate to high probability of encountering MEC.
- (2) Excavation Permit not required for projects with minimal soil disturbance (<10 cy)

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MEC Construction Support: On-site Construction Support Activities

On-site Construction Support⁽¹⁾



1. Excavation Permit⁽²⁾
2. On-Site Construction Support Plan
3. Worker munitions safety training
4. UXO support contractor attempts to identify and remove any explosive hazards in construction footprint prior to ground-disturbing activities
5. After explosive hazards removed, UXO support contractor on standby to assist if suspect munitions items encountered
6. UXO support contractor will address MEC items recovered

Notes:

- (1) Any soil disturbance in areas with a moderate to high probability of encountering MEC.
- (2) Excavation Permit not required for projects with minimal soil disturbance

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LUC Operation and Maintenance

Response to Suspect Munitions Finds

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Response to Suspect Munitions Finds

- Three scenarios for response to suspect munitions items
- Standard procedure for encounters with suspected items
 - Stop work in vicinity of suspect munitions item
 - Immediately notify local law enforcement
 - Local law enforcement secures site and request DoD response
- On-call Construction Support
 - Stop work in work in area of suspect munitions item
 - Immediately notify UXO support contractor
 - UXO-qualified personnel inspect and assess suspect item
 - Confirmed MEC, all work stops at site, notify local law enforcement
 - Local law enforcement secures site and requests DoD response
- On-site Construction Support
 - Process to be included in On-site Construction Support Plan



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Land Use Controls Operation and Maintenance

Questions?