

PROCEDURES FOR IMPLEMENTATION OF THE SIKES ACT IMPROVEMENT ACT

Coordination Requirements of the Sikes Act

Defining Mutual Agreement with the FWS and State Fish and Wildlife Agency

The SAIA requires the Secretaries of the Military Departments to prepare Integrated Natural Resource Management Plans (INRMPs) in cooperation with the U.S. Fish and Wildlife Service (FWS) and the appropriate state fish, wildlife, and game agency. The SAIA further, requires that INRMPs reflect “mutual agreement of the parties concerning the conservation, protection, and management of fish and wildlife resources.”

Mutual agreement should be the goal with respect to the entire INRMP. However, mutual agreement is required only with respect to those elements of the INRMP that are subject to an authority derived from a source other than the Sikes Act (e.g., the Endangered Species Act). Nothing in the SAIA is intended to either enlarge or diminish the existing responsibility and authority of the FWS or state agencies concerning natural resources management on military lands. Although it is not expected to occur often, when the FWS or a state withholds its agreement based on objections to elements of the INRMP clearly not within the scope of the particular agency's authority, an installation may, notwithstanding the objections, finalize the INRMP and proceed to manage its natural resources in accordance with its terms.

Soliciting public comments

The National Environmental Policy Act (NEPA) process may be used to meet DoD's public review requirements for developing an initial INRMP, and to document the decision to adopt formally an INRMP. The NEPA process, however, will satisfy SAIA public comment requirements only if the public is provided a meaningful opportunity to comment upon the draft INRMP as part of the NEPA process. Absent some extraordinary circumstance, the public should be afforded a minimum of 30 days to review and comment upon a draft INRMP, whether as part of the NEPA process or through some other process.

Each installation should provide to the appropriate state and FWS offices all public comments received on its INRMP. Doing this will alert these offices of potential issues sufficiently early in the review process to permit appropriate consideration during the overall review of the INRMP.

Specific coordination requirements

Each DoD installation will establish and maintain regular communications with the appropriate FWS and state fish and wildlife agency offices to address issues concerning natural resources management that are not addressed in the INRMP. At a minimum, this will include annual coordination with all cooperating offices.

Each DoD installation will advise all appropriate internal and external stakeholders of the intent to prepare or revise an INRMP within 30 days of starting such an action. This should include inviting FWS and state fish and wildlife agency representatives to participate cooperatively in the scoping, design, and preparation of the INRMP, as well as a concurrent request that FWS and the state participate in the development or revision of the INRMP.

Each DoD installation will notify the appropriate FWS and state offices regarding its intent to provide a draft INRMP for review and coordination at least 60 days prior to delivering such document.

For the FWS, the appropriate office for installations to contact regarding INRMP development and review, is a field office. Pursuant to current FWS Sikes Act Guidance, a field office must review the INRMP and provide preliminary agreement concerning the conservation, protection, and management of fish and wildlife resources detailed in the INRMP prior to review in the regional office and final action by a Regional Director. Installation personnel should contact the FWS Regional Coordinator if they need information about which field office to work with.

The following process will be used to facilitate coordination within and between the various participating organizations, and to ensure adequate documentation of the coordination process.

- Each DoD installation will send an initial draft INRMP to the FWS field office and state fish and wildlife agency office for review and comment. A copy of the forwarding letter will be sent to the Sikes Act Coordinator at the FWS regional office to inform them that the review process has begun.
- Each installation will request written acknowledgement of receipt of the draft INRMP within 15 days of receipt.
- The FWS field office will provide written comments to the installation, and furnish copies of the letter to the Sikes Act Coordinator at the FWS regional office, as well as to the state fish and wildlife agency director's office.
- The state fish and wildlife office will provide written comments to the installation, and furnish copies of the letter to the Sikes Act Coordinator at the FWS regional office.
- The installation will consider all comments received, and send a final draft of the INRMP to the FWS regional office and the state director's office with a letter documenting the actions taken on the draft comments. The installation will furnish a copy of that letter to the FWS field office.
- Each installation should request that the FWS and the state director provide consolidated written comments from all appropriate offices and divisions within 60 days of receipt of the final draft INRMP, unless the participants mutually agree upon a longer review period (e.g., because an installation has a particularly large or complex INRMP).

The following special situations are exceptions to this timeline. In these cases, the DoD installation will request the FWS regional office and field office to notify the installation of the appropriate review timeline within 15 days of receipt of the draft INRMP:

- If formal Section 7 consultation is required, the time frames for that process will apply.

- If the installation is requesting that the INRMP substitute for designation of critical habitat on the installation.
- If FWS chooses to comment separately from an INRMP review response on these issues.

Except for the special situations described above, if after a period of 120 days no final comments are received from the appropriate state and FWS offices, an installation may request expedited review of its INRMP. The installation should submit a written request to designated Headquarters representatives of the DoD and FWS, and to the director of the appropriate state fish and wildlife agency. Representatives from these offices will meet within 30 days of receipt of such a request to resolve any outstanding coordination issues.

Mutual agreement with respect to those elements of the INRMP concerning the conservation, protection, and management of fish and wildlife resources will be presumed only upon receipt of written concurrence on those elements of the INRMP from:

- For the FWS, the Regional Director
- For the state, the Director of its fish and wildlife agency.
- For DoD, the installation commander.

Current FWS policy is described in the 8 June 2001 memo, “Guidance for Coordination on DoD Sikes Act INRMPs.” This memo is available electronically at www.fws.gov/r9dhcbfa/sikes.pdf.

Integrating other plans, programs, and policies

INRMPs will be prepared in coordination with installation master plans, range plans, training plans, Integrated Cultural Resources Management Plans (ICRMPs), pest management plans, installation restoration plans that address contaminants covered by CERCLA and related provisions, and other appropriate plans and offices. It is not intended that INRMPs will function as a comprehensive compilation of detailed information on all these related topics. Rather, the INRMP should briefly summarize the key interrelationships with other plans, reference where those plans may be obtained, and describe where further and more detailed information can be found.

Availability of INRMPs

Unclassified portions of all final INRMPs will be available electronically via the World Wide Web, CD-ROM, or other similar means. Draft INRMPs also may be made available electronically to expedite review and comments.

All such documents must undergo appropriate security review prior to being released. Security review personnel will consider the security of locational information of natural and cultural resources that may be subject to pilfering or vandalism, as well as military security.

Sikes Act Reporting Requirements

Defining which installations require INRMPs

An installation will normally require an INRMP if it undertakes more than one of the following activities: fish and wildlife management; threatened and endangered species management; hunting and fishing management; land management; forest management; natural resources-based outdoor recreation; on-the-ground military mission operations. All DoD Components with land management responsibilities are subject to the requirements of this and all other sections of the SAIA, and will develop policies for the criteria that determine INRMP requirements.

Installation size (acreage) should not be used as a determining factor in deciding whether or not an installation requires an INRMP. The specific nature of an installation (e.g., a fully built-up area) or the negative findings of a biological survey may be adequate reasons to justify not preparing an INRMP if they can adequately demonstrate the absence of “significant” natural resources.

Sikes Act Implementation Requirements

Defining Implementation

Implementation anticipates the execution of all “must fund” projects and activities in accordance with specific timeframes identified in the INRMP.

An INRMP is considered to be implemented if an installation:

- Actively requests, receives, and uses funds for “must fund” projects and activities;
- Ensures that sufficient numbers of professionally trained natural resources management personnel are available to perform the tasks required by the INRMP;
- Coordinates annually with all cooperating offices; and
- Documents specific INRMP action accomplishments undertaken each year.

Each installation will invite annual feedback on the effectiveness of the INRMP from the appropriate FWS and state agency offices. The form letter in the INRMP Handbook (see below) may be used to request this feedback.

Installations will inform FWS and the state which INRMP projects are, or will be required to meet current and future compliance requirements. This information need not be contained in the INRMP, but may be provided after review and validation of the projects and the estimated costs of requirements.

INRMPs as a Substitute for Critical Habitat Designation

According to FWS policy, if adequate special management or protection is provided by a legally operative plan, and that plan addresses the maintenance and improvement of the primary constituent elements important to a species, including managing for the species’ long-term

conservation, then habitat identified as essential to the protection and recovery of that species may be omitted from federal critical habitat designation.

An installation may have its INRMP serve as “adequate special management” (and thereby obviate the need for critical habitat designation) if the INRMP addresses the maintenance and improvement of the primary constituent elements important to the species and manages for the long-term conservation of the species.

Special Management Criteria

Special management or protection is a term that stems from the definition of *occupied* critical habitat in Section 3 of the ESA. For occupied habitat, one first determines whether the area contains the physical and biological features essential to the conservation of the species and, if so, whether this area has or needs special management or protection.

Additional special management is not required if adequate management or protection is already in place. If *unoccupied* areas are determined to be essential to the conservation of the species, such unoccupied areas should be included only where special management or protection is required.

The FWS uses the following three criteria to determine if an INRMP provides adequate special management or protection:

1. The INRMP provides a conservation benefit to the species. The cumulative benefits of the management activities identified in the INRMP, for its duration, must maintain or provide for an increase in a species’ population, or the enhancement or restoration of its habitat within the covered area [i.e., those areas deemed essential to the conservation of the species]. A conservation benefit may result from reducing fragmentation of habitat, maintaining or increasing populations, insuring against catastrophic events, enhancing and restoring habitats, buffering protected areas, or testing and implementing new conservation strategies.

2. The INRMP provides certainty that it will be implemented. Persons charged with INRMP implementation are capable of accomplishing its objectives, and have adequate funding and have obtained all the necessary authorizations or approvals to do so. An implementation schedule (including completion dates) for conservation efforts should be included in the INRMP.

3. The INRMP provides certainty that the conservation effort will be effective. The following criteria must be included for an INRMP to be considered effective:

- (1) biological goals (broad guiding principles for the program) and objectives (measurable targets for achieving the goals);
- (2) quantifiable, scientifically valid parameters that will demonstrate achievement of objectives, and identified standards for the parameters by which progress will be measured;
- (3) provisions for monitoring and, where appropriate, adaptive management;

- (4) provisions for reporting progress on implementation (based on compliance with the implementation schedule) and effectiveness (based on evaluation of quantifiable parameters) of the conservation effort; and
- (5) a duration sufficient to implement identified projects and actions, and to achieve the benefits of related goals and objectives.

The INRMP Handbook

Resources for Integrated Natural Resources Management Plan (INRMP) Implementation: A Handbook for the Natural Resources Manager provides practical implementation guidelines for the DoD natural resources manager. It is available electronically at <https://www.denix.osd.mil/inrmp>.

Guidance Concerning INRMP Reviews

INRMP Annual Reviews

All INRMPs will be reviewed annually by the DoD installation with the cooperation of the FWS and appropriate state fish and wildlife agency. Annual reviews will verify that:

- Current information on all conservation metrics is available.
- All current compliance requirements activities have been budgeted for and implementation is on schedule.
- All required trained natural resources positions are filled or are in the process of being filled.
- Projects and activities for the upcoming year have been identified and included in the INRMP. An updated project list does not necessitate revising the INRMP.
- All required coordinations have occurred.
- All significant changes to the installation's mission requirements or its natural resources have been identified.

All INRMPs will be reviewed at intervals of not more than five years, and more frequently if warranted by significant changes to the installation's mission requirements or its natural resources.

Scope of the Review for Operation and Effect

The requirement to review INRMPs on a regular basis, but not less often than every 5 years, does not mean that every INRMP necessarily needs to be revised. The SAIA specifically directs that INRMPs be reviewed "as to operation and effect," emphasizing that the review is intended to determine whether existing INRMPs are being implemented to meet SAIA requirements and contribute to the conservation and rehabilitation of natural resources on military installations. Many existing INRMPs will likely be determined to be adequate and not in need of revision.

INRMP reviews must be performed by “the parties.” This means that no less frequently than every 5 years, all three parties to the INRMP (DoD, FWS, and the state) must complete a comprehensive review of each installation’s INRMP. Although not expressly required by the SAIA, installations should document the outcome of this joint review in a memorandum or letter that summarizes the rationale for the conclusions the parties have reached. This written documentation should be jointly executed or in some other way reflect the parties’ mutual agreement.

Although the SAIA specifies only that a formal review must be completed no less often than every 5 years, DoD policy requires installations to review INRMPs annually in cooperation with the other parties to the INRMP. Annual reviews facilitate “adaptive management” by providing an opportunity for all parties to review INRMP goals and objectives, as well as establish a realistic schedule for undertaking proposed actions.

Public Comment on INRMP Reviews

There is no legal obligation to invite the public either to review or to comment upon the parties’ mutually agreed upon decision to continue implementation of an existing INRMP without revision. If the parties determine that revisions to an INRMP are necessary, public comment will be invited in conjunction with any required NEPA analysis:

- If only limited revisions to an existing INRMP are thought to be required, and these revisions are not expected to result in biophysical consequences materially different from those anticipated in the existing INRMP and analyzed in an existing NEPA document, then neither additional NEPA analysis nor an opportunity for public comment should be necessary.
- If more substantial revisions to an INRMP are thought to be required, and these revisions are expected to result in biophysical consequences materially different from those anticipated in the existing INRMP and analyzed in an existing NEPA document, then a new or supplemental NEPA analysis must be prepared and the public provided a reasonable opportunity to comment on the revised INRMP.

Endangered Species Act Consultation

It is expected that in most cases INRMPs will incorporate by reference the results of an installation’s previous species-by-species ESA consultations, including any reasonable and prudent measures that may have been identified in an incidental take statement. Consequently, neither a separate biological assessment nor a separate formal consultation should be necessary for most INRMPs or INRMP revisions. Nonetheless, because the INRMP may include management strategies or other actions designed to balance the potentially competing needs of multiple species, listed or not, it may be prudent to engage in informal consultation with FWS during the INRMP revision process to confirm that these proposed actions will not affect listed

species or designated critical habitat. If the INRMP does include management strategies or other actions that may affect listed species or designated critical habitat, and these actions have not been the subject of previous consultations, then Section 7 consultation on these actions will be necessary before the actions may be implemented.

Miscellaneous Requirements of the Sikes Act

How to address the no net loss capability of military lands to support mission requirements.

The primary purpose of DoD lands and waters is to support mission-related activities. Management objectives to protect mission capabilities (from which annual projects are developed) should be clearly articulated in the INRMP planning process and should be high in resourcing priorities. INRMP effectiveness in preventing “net loss” must be evaluated annually. Mission requirements and priorities identified in the INRMP will, where applicable, be integrated in other environmental programs and policies.

Natural resources are not to be consumed by mission requirements, but are to be sustained for future mission use requirements. To achieve this, environmental programs and policies must seek to preserve the environment for military testing and training purposes.

When a “net loss” is unavoidable due to a regulatory requirement other than the Sikes Act (e.g., complying with a BO under the provisions of the Endangered Species Act or the protection of wetlands under the provisions of the Clean Water Act), the loss of mission capability and a discussion of measures being undertaken to recapture the net loss will be included in the INRMP.

When to prepare INRMPs for Closed or Closing Bases

INRMPs, as defined by the SAIA, are not required for closed and closing bases. However, many closing installations should retain existing INRMPs in place to cover appropriate natural resource management issues that may require ongoing active management during the closure process. These INRMPs need not be revised during the closure process. Each Military Service will annually provide a list of installations that require this level of management.

Funds Authorization for 18 months for the Cost of Goods and Services provided under a Cooperative Agreement

This authorization facilitates the execution of seasonal conservation projects that are funded through cooperative agreements. The terms of Section 103(a) authorize the obligation of current fiscal year funds under the provisions of a cooperative agreement for the period of 18 months from the date that the cooperative agreement is executed. DoD Components should develop policies that delegate cooperative agreement authority to the installation level, and convey the authority to obligate funds beyond the current fiscal year.

Authorizing Cooperative Agreements for Land Management on DoD Lands

This authorization is intended to facilitate the acquisition of ecological services on military installations, to include monitoring and the transfer of funds for services provided.

Tenants and Lessees

Section 670a(a)(1)(B) requires the preparation of an INRMP for each military installation in the United States with extant natural resources. Each such INRMP must address resource management on all of the lands for which the subject installation has real property accountability, including lands occupied by tenants or lessees or being used by others pursuant to a permit, license, right of way, or any other form of permission. Installation commanders may require tenants, lessees, permittees, and other parties that request permission to occupy or use installation property to accept responsibility, as a condition of their occupancy or use, for performing appropriate natural resource management actions. This does not, however, obviate the need to address natural resource management on any such lands in the INRMP. DoD can discharge this obligation only if the scope of its INRMPs matches the scope of its responsibilities. DoD is answerable to the public for the conservation, protection, and management of natural resources on all of the lands with which is has been entrusted.