Additional Guidance Concerning INRMP Reviews

Scope of the Review

Legislative Language

Section 101(b)(2) of the Sikes Act [16 U.S.C. 670a(b)(2)] states that each INRMP "must be reviewed as to operation and effect by the parties thereto on a regular basis, but not less often than every 5 years."

DoD Policy

The requirement to "review" the 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 Sikes Act specifically directs that the INRMPs be reviewed "as to operation and effect," emphasizing that the review is intended to determine whether existing INRMPs are being implemented to meet the requirements of the Sikes Act and contribute to the conservation and rehabilitation of natural resources on military installations. We expect that many existing INRMPs will be determined to be adequate and not in need of revision.

These reviews must be performed by "the parties." This means that no less frequently than every 5 years, all three parties to the INRMP must complete a review of the INRMP. Although not expressly required by the Sikes Act, we urge installations to document the outcome of this joint review in a memorandum or letter summarizing 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 Sikes Act 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 the parties to review the goals and objectives of the plan, as well as establish a realistic schedule for undertaking proposed actions. Although not required by the Sikes Act, installations will likely find it useful to memorialize these less formal reviews through an exchange of letters or a jointly executed memorandum. These documented annual (or otherwise) reviews may be useful in developing the *ex parte* reports required by Section 101(f) of the Sikes Act, as well as expedite—or, in appropriate cases, substitute for--the more formal 5-year reviews (provided these "regular" reviews are reasonably comprehensive and the written documentation evidences the parties' mutual agreement).

Public Comment On INRMP Reviews

Legislative Language

Section 2905 of the Sikes Act Improvement Act of 1997 [16 U.S.C. 670a note] required the Secretary of each Military Department to provide the public an opportunity for the submission of comments on the initial INRMPs prepared pursuant to new Section 101(a)(2) of the Sikes Act [16 U.S.C. 670a(a)(2)].

DoD Policy

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 shall be invited in conjunction with any required National Environmental Policy Act 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

Legislative Language

The Sikes Act is silent regarding the necessity for ESA consultation on INRMPs.

DoD Policy

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. As a consequence, neither a separate biological assessment nor a separate formal consultation should be necessary concerning most INRMPs or INRMP revisions. Nonetheless, because the INRMP may include management strategies designed to balance the potentially competing needs of multiple species, listed or not, it may be prudent to engage in informal consultation with the Fish & Wildlife Service during the INRMP revision process to confirm that these proposed strategies are not likely to adversely affect a listed species or designated critical habitat. (Of course, if the INRMP includes management strategies that may affect listed species that have not been the subject of a prior consultation, then Section 7 consultation on the INRMP itself will be necessary.