



The

Sikes Act

As Amended through 2003

As amended by:

Public Law 108-136, the National Defense Authorization Act of 2004

Prepared by:

National Military Fish and Wildlife Association
Government Affairs Committee

2004

The Sikes Act

An Act to promote effectual planning, development, maintenance, and coordination of wildlife, fish, and game conservation and rehabilitation in military reservations, approved September 15, 1960, commonly referred to as the “Sikes Act.”

TITLE 16 - CONSERVATION¹

CHAPTER 5C – CONSERVATION PROGRAMS ON GOVERNMENT LANDS

SUBCHAPTER I – CONSERVATION PROGRAMS ON MILITARY INSTALLATIONS

Sec. 670 [SECTION 1.] SHORT TITLE.

This Act may be cited as the “Sikes Act.”

Sec. 670-1. [SECTION 100.] DEFINITIONS.

In this title:

(1) Military installation. The term “military installation”—

(A) means any land or interest in land owned by the United States and administered by the Secretary of Defense or the Secretary of a military department, except land under the jurisdiction of the Assistant Secretary of the Army having responsibility for civil works;

(B) includes all public lands withdrawn from all forms of appropriation under public land laws and reserved for use by the Secretary of Defense or the Secretary of a military department; and

(C) does not include any land described in subparagraph (A) or (B) that is subject to an approved recommendation for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 USC 2687 note).

(2) State fish and wildlife agency.--The term “State fish and wildlife agency” means the one or more agencies of State government that are responsible under State law for managing fish or wildlife resources.

¹ To simplify things, this handout uses the version of the Act found in the United States Code. The citation is “16 USC 670, et seq.” But beware, not all versions of the USC, printed or on-line, exactly agree on all words and punctuation.

(3) United States.--The term “United States” means the States, the District of Columbia, and the territories and possessions of the United States.

Sec. 670a. [SECTION 101.] COOPERATIVE PLAN FOR CONSERVATION AND REHABILITATION

(a) Authority of Secretary of Defense.

(1) Program.

(A) In general. The Secretary of Defense shall carry out a program to provide for the conservation and rehabilitation of natural resources on military installations.

(B) Integrated natural resources management plan. To facilitate the program, the Secretary of each military department shall prepare and implement an integrated natural resources management plan for each military installation in the United States under the jurisdiction of the Secretary, unless the Secretary determines that the absence of significant natural resources on a particular installation makes the preparation of such a plan inappropriate.

(2) Cooperative preparation. The Secretary of a military department shall prepare each integrated natural resources management plan for which the Secretary is responsible in cooperation with the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, and the head of each appropriate State fish and wildlife agency for the State in which the military installation concerned is located. Consistent with paragraph (4), the resulting plan for the military installation shall reflect the mutual agreement of the parties concerning conservation, protection, and management of fish and wildlife resources.

(3) Purposes of program. Consistent with the use of military installations to ensure the preparedness of the Armed Forces, the Secretaries of the military departments shall carry out the program required by this subsection to provide for—

(A) the conservation and rehabilitation of natural resources on military installations;

(B) the sustainable multipurpose use of the resources, which shall include hunting, fishing, trapping, and nonconsumptive uses; and

(C) subject to safety requirements and military security, public access to military installations to facilitate the use.

(4) Effect on other law. Nothing in this title—

(A)(i) affects any provision of a Federal law governing the conservation or protection of fish and wildlife resources; or

(ii) enlarges or diminishes the responsibility and authority of any State for the protection and management of fish and resident wildlife; or

(B) except as specifically provided in the other provisions of this section and in section 102, authorizes the Secretary of a military department to require a Federal license or permit to hunt, fish, or trap on a military installation.

(b) Required elements of the plans.- Consistent with the use of military installations to ensure the preparedness of the Armed Forces, each integrated natural resources management plan prepared under subsection (a)--

(1) shall, where appropriate and applicable, provide for--

(A) fish and wildlife management, land management, forest management, and fish and wildlife-oriented recreation;

(B) fish and wildlife habitat enhancement or modifications;

(C) wetland protection, enhancement, and restoration, where necessary for support of fish or wildlife;

(D) integration of, and consistency among, the various activities conducted under the plan;

(E) establishment of specific natural resource management objectives and time frames for proposed action;

(F) sustained use by the public of natural resources to the extent such use is not inconsistent with the needs of fish and wildlife resources management;

(G) public access to the military installation that is necessary or appropriate for the use described in subparagraph (F), subject to requirements necessary to ensure safety and military security;

(H) enforcement of natural resource laws and regulations;

(I) no net loss in the capability of military installation lands to support the military mission of the installation; and

(J) such other activities as the Secretary of the military department considers appropriate;

(B) must be reviewed as to operation and effect by the parties thereto on a regular basis, but not less often than every 5 years; and

(3) may stipulate the issuance of special State hunting and fishing permits to individuals and require payment of nominal fees therefore, which fees shall be utilized for the protection, conservation, and management of fish and wildlife, including habitat improvement and related activities in accordance with the integrated natural resources management plan; except that--

a. the Commanding Officer of the installation or persons designated by that Officer are authorized to enforce such special hunting and fishing permits and to collect, spend, administer, and account for fees for the permits, acting as agent or agents of the State if the cooperative plan so provides, and

(B) the fees collected under this paragraph may not be expended with respect to other than the military installation on which collected, unless the military installation is subsequently closed, in which case the fees may be transferred to another military installation to be used for the same purposes.

(c) Prohibitions on sale and lease of lands unless effects compatible with plan. After an integrated natural resources management plan is agreed to under subsection (a) of this section—

(1) no sale of land, or forest products from land, that is within a military installation covered by that plan may be made under section 2665(a) or (b) of title 10; and

(2) no leasing of land that is within the installation may be made under section 2667 of such title 10;

unless the effects of that sale or leasing are compatible with the purposes of the plan.

(d) Implementation and enforcement of integrated natural resources management plans.

With regard to the implementation and enforcement of integrated natural resources management plans agreed to under subsection (a) of this section—

(1) neither Office of Management and Budget Circular A-76 nor any successor circular thereto applies to the procurement of services that are necessary for that implementation and enforcement; and

(2) priority shall be given to the entering into of contracts for the procurement of such implementation and enforcement services with Federal and State agencies having responsibility for the conservation or management of fish or wildlife.

(e) Applicability of other laws.

Integrated natural resources management plans agreed to under the authority of this section and section 670b [Section 102] of this title shall not be deemed to be, nor treated as, cooperative agreements to which chapter 63 of title 31 applies.

(f) Reviews and reports.--

(1) Secretary of Defense. Not later than March 1 of each year, the Secretary of Defense shall review the extent to which integrated natural resources management plans were prepared or were in effect and implemented in accordance with this subchapter in the preceding year, and submit a report on the findings of the review to the committees. Each report shall include--

(A) the number of integrated natural resources management plans in effect in the year covered by the report, including the date on which each plan was issued in final form or most recently revised;

(B) the amounts expended on conservation activities conducted pursuant to the plans in the year covered by the report; and

(C) an assessment of the extent to which the plans comply with this title.

(2) Secretary of the Interior.--Not later than March 1 of each year and in consultation with the heads of State fish and wildlife agencies, the Secretary of the Interior shall submit a report to the committees on the amounts expended by the Department of the Interior and the State fish and wildlife agencies in the year covered by the report on conservation activities conducted pursuant to integrated natural resources management plans.

(3) Definition of committees. -- In this subsection, the term "committees" means--

(A) the Committee on Resources and the Committee on Armed Services of the House of Representatives; and

(B) the Committee on Armed Services and the Committee on Environment and Public Works of the Senate.

(g) PILOT PROGRAM FOR INVASIVE SPECIES MANAGEMENT FOR MILITARY INSTALLATIONS IN GUAM-

(1) INCLUSION OF INVASIVE SPECIES MANAGEMENT- During fiscal years 2004 through 2008, the Secretary of Defense shall, to the extent practicable and conducive to military readiness, incorporate in integrated natural resources management plans for military installations in Guam the management, control, and eradication of invasive species--

(A) that are not native to the ecosystem of the military installation; and

(B) the introduction of which cause or may cause harm to military readiness, the environment, or human health and safety.

(2) CONSULTATION- The Secretary of Defense shall carry out this subsection in consultation with the Secretary of the Interior.

Sec. 670b. [SECTION 102.] MIGRATORY GAME BIRDS; PERMITS; FEES; STAMP ACT AND STATE LAW REQUIREMENTS

The Secretary of Defense in cooperation with the Secretary of the Interior and the appropriate State agency is authorized to carry out a program for the conservation, restoration and management of migratory game birds on military installations, including the issuance of special hunting permits and the collection of fees therefor, in accordance with an integrated natural resources management plan mutually agreed upon by the Secretary of Defense, the Secretary of the Interior and the appropriate State agency: Provided, That possession of a special permit for hunting migratory game birds issued pursuant to this subchapter shall not relieve the permittee of the requirements of the Migratory Bird Hunting Stamp Act as amended [16 U.S.C. 718 et seq.] nor of the requirements pertaining to State law set forth in Public Law 85-337.

Sec. 670c. [SECTION 103.] PROGRAM FOR PUBLIC RECREATION

(a) Program authorized--The Secretary of Defense is also authorized to carry out a program for the development, enhancement, operation, and maintenance of public outdoor recreation resources at military installations in accordance with an integrated natural resources management plan mutually agreed upon by the Secretary of Defense and the Secretary of the Interior, in consultation with the appropriate State agency designated by the State in which the installations are located.

(b) Access for disabled veterans, military dependents with disabilities, and other persons with disabilities--

(1) In developing facilities and conducting programs for public outdoor recreation at military installations, consistent with the primary military mission of the installations, the Secretary of Defense shall ensure, to the extent reasonably practicable, that outdoor recreation opportunities (including fishing, hunting, trapping, wildlife viewing, boating, and camping) made available to the public also provide access for persons described in paragraph (2) when topographic, vegetative, and water resources allow access for such persons without substantial modification to the natural environment.

(2) Persons referred to in paragraph (1) are the following:

(A) Disabled veterans.

(B) Military dependents with disabilities.

(C) Other persons with disabilities, when access to a military installation for such persons and other civilians is not otherwise restricted.

(3) The Secretary of Defense shall carry out this subsection in consultation with the Secretary of Veterans Affairs, national service, military, and veterans organizations, and sporting organizations in the private sector that participate in outdoor recreation projects for persons described in paragraph (2).

(c) Acceptance of donations.--In connection with the facilities and programs for public outdoor recreation at military installations, in particular the requirement under subsection (b) of this section to provide access for persons described in paragraph (2) of such subsection, the Secretary of Defense may accept--

(1) the voluntary services of individuals and organizations; and

(2) donations of property, whether real or personal.

(d) Treatment of volunteers.--A volunteer under subsection (c) of this section shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that--

(1) for the purposes of the tort claims provisions of chapter 171 of title 28, the volunteer shall be considered to be a Federal employee; and

(2) for the purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, the volunteer shall be considered to be an employee, as defined in section 8101(1)(B) of title 5, and the provisions of such subchapter shall apply.

Sec. 670c-1. [SECTION 103a.] COOPERATIVE AGREEMENTS FOR LAND MANAGEMENT ON DEPARTMENT OF DEFENSE INSTALLATIONS.

(a) Authority of Secretary of a military department

The Secretary of a military department may enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals to provide for the maintenance and improvement of natural resources on, or to benefit natural and historic research on, Department of Defense installations.

(b) Multiyear agreements

Funds appropriated to the Department of Defense for a fiscal year may be obligated to cover the cost of goods and services provided under a cooperative agreement entered into under subsection (a) of this section or through an agency agreement under section 1535 of title 31 during any 18-month period beginning in that fiscal year, without regard to whether the agreement crosses fiscal years.

(c) Availability of funds; agreements under other laws

Cooperative agreements entered into under this section shall be subject to the availability of funds and shall not be considered, nor be treated as, cooperative agreements to which chapter 63 of title 31 applies.

Sec. 670d. [SECTION 104.] LIABILITY FOR FUNDS; ACCOUNTING TO COMPTROLLER GENERAL.

The Department of Defense is held free from any liability to pay into the Treasury of the United States upon the operation of the program or programs authorized by this subchapter any funds which may have been or may hereafter be collected, received or expended pursuant to, and for the purposes of, this subchapter, and which collections, receipts and expenditures have been properly accounted for to the Comptroller General of the United States.

Sec. 670e. [SECTION 105.] APPLICABILITY TO OTHER LAWS; NATIONAL FOREST LANDS.

Nothing herein contained shall be construed to modify, amend or repeal any provision of Public Law 85-337, nor as applying to national forest lands administered pursuant to the provisions of section 9 of the Act of June 7, 1924 (43 Stat. 655), nor section 315m of title 43.

Sec. 670e-1. [SECTION 106.] FEDERAL ENFORCEMENT OF OTHER LAWS.

All Federal laws relating to the management of natural resources on Federal land may be enforced by the Secretary of Defense with respect to violations of the laws that occur on military installations within the United States.

Sec. 670e-2. [SECTION 107.] NATURAL RESOURCES MANAGEMENT SERVICES.

To the extent practicable using available resources, the Secretary of each military department shall ensure that sufficient numbers of professionally trained natural resources management personnel and natural resources law enforcement personnel are available and assigned responsibility to perform tasks necessary to carry out this subchapter, including the preparation and implementation of integrated natural resources management plans.

SENSE OF CONGRESS REGARDING SECTION 107-

(1) Congress finds the following:

(A) The Department of Defense maintains over 25,000,000 acres of valuable fish and wildlife habitat on approximately 400 military installations nationwide.

(B) These lands contain a wealth of plant and animal life, vital wetlands for migratory birds, and nearly 300 federally listed threatened species and endangered species.

(C) Increasingly, land surrounding military bases are being developed with residential and commercial infrastructure that fragments fish and wildlife habitat and decreases its ability to support a diversity of species.

(D) Comprehensive conservation plans, such as integrated natural resource management plans under the Sikes Act (16 U.S.C. 670 et seq.), can ensure that these ecosystem values can be protected and enhanced while allowing these lands to meet the needs of military operations.

(E) Section 107 of the Sikes Act (16 U.S.C. 670e-2) requires sufficient numbers of professionally trained natural resources management personnel and natural resources law enforcement personnel to be available and assigned responsibility to perform tasks necessary to carry out title I of the Sikes Act, including the preparation and implementation of integrated natural resource management plans.

(F) Managerial and policymaking functions performed by Department of Defense on-site professionally trained natural resource management personnel on military installations are appropriate governmental functions.

(G) Professionally trained civilian biologists in permanent Federal Government career managerial positions are essential to oversee fish and wildlife and natural resource conservation programs and are essential to the conservation of wildlife species on military land.

(2) It is the sense of Congress that the Secretary of Defense should take whatever steps are necessary to ensure that section 107 of the Sikes Act (16 U.S.C. 670e-2) is fully implemented consistent with the findings made in paragraph (1).

Sec. 670f. [SECTION 108.] APPROPRIATIONS AND EXPENDITURES.

(a) Expenditures exclusively under plans; availability of funds until expended.

The Secretary of Defense shall expend such funds as may be collected in accordance with the integrated natural resources management plans agreed to under sections 670a and 670b of this title and cooperative agreements agreed to under section 670c-1 of this title and for no other purpose. All funds that are so collected shall remain available until expended.

(b) Authorization of appropriations to Secretary of Defense.

There are authorized to be appropriated to the Secretary of Defense not to exceed \$1,500,000 for each of the fiscal years 2004 through 2008, to carry out this subchapter, including the enhancement of fish and wildlife habitat and the development of public recreation and other facilities, and to carry out such functions and responsibilities as the Secretary may

have under cooperative agreements entered into under section 670c-1 of this title. The Secretary of Defense shall, to the greatest extent practicable, enter into agreements to utilize the services, personnel, equipment, and facilities, with or without reimbursement, of the Secretary of the Interior in carrying out the provisions of this section.

(c) Authorization of appropriations to Secretary of the Interior.

There are authorized to be appropriated to the Secretary of the Interior not to exceed \$3,000,000 for each of the fiscal years 2004 through 2008, to carry out such functions and responsibilities as the Secretary may have under integrated natural resources management plans to which such Secretary is a party under this section, including those for the enhancement of fish and wildlife habitat and the development of public recreation and other facilities.

(d) Use of other conservation or rehabilitation authorities.

The Secretary of Defense and the Secretary of the Interior may each use any authority available to him under other laws relating to fish, wildlife, or plant conservation or rehabilitation for purposes of carrying out the provisions of this subchapter.