

113TH CONGRESS }
1st Session } HOUSE OF REPRESENTATIVES { REPT. 113–115
Part 1

AMENDING THE SIKES ACT TO PROMOTE THE USE OF COOPERATIVE AGREEMENTS UNDER SUCH ACT FOR LAND MANAGEMENT RELATED TO DEPARTMENT OF DEFENSE READINESS ACTIVITIES AND TO AMEND TITLE 10, UNITED STATES CODE, TO FACILITATE INTERAGENCY COOPERATION IN CONSERVATION PROGRAMS TO AVOID OR REDUCE ADVERSE IMPACTS ON MILITARY READINESS ACTIVITIES

JUNE 17, 2013.—Ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 1080]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1080) to amend the Sikes Act to promote the use of cooperative agreements under such Act for land management related to Department of Defense readiness activities and to amend title 10, United States Code, to facilitate interagency cooperation in conservation programs to avoid or reduce adverse impacts on military readiness activities, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. COOPERATIVE AGREEMENTS UNDER SIKES ACT FOR LAND MANAGEMENT RELATED TO DEPARTMENT OF DEFENSE READINESS ACTIVITIES.

(a) MULTIYEAR AGREEMENTS TO FUND LONG-TERM MANAGEMENT.—Subsection (b) of section 103A of the Sikes Act (16 U.S.C. 670c–1) is amended—

(1) by inserting “(1)” before “Funds”; and

(2) by adding at the end the following new paragraph:

“(2) In the case of a cooperative agreement under subsection (a)(2), funds referred to in paragraph (1)—

“(A) may be paid in a lump sum and include an amount intended to cover the future costs of the natural resource maintenance and improvement activities provided for under the agreement; and

“(B) may be invested by the recipient in accordance with the recipient’s own guidelines for the management and investment of financial assets, and any interest or income derived from such investment may be applied for the same purposes as the principal.”.

(b) AVAILABILITY OF FUNDS AND RELATION TO OTHER LAWS.—Subsection (c) of such section is amended to read as follows:

“(c) AVAILABILITY OF FUNDS AND RELATION TO OTHER LAWS.—(1) Cooperative agreements and interagency agreements entered into under this section shall be subject to the availability of funds.

“(2) Notwithstanding chapter 63 of title 31, United States Code, a cooperative agreement under this section may be used to acquire property or services for the direct benefit or use of the United States Government.

“(3) Amounts available to the Department of Defense that are provided to any Federal, State, local, or nongovernmental entity for conservation and rehabilitation of natural resources in an area that is not on a military installation—

“(A) may only be used for payment of direct costs associated with the management of such area; and

“(B) may be used to pay not more than 3 percent of total project administrative costs, fees, and management charges.

“(4) Amounts available to the Department of Defense may not be used under this Act to acquire fee title interest in real property for natural resources projects that are not on a military installation.”.

(c) ANNUAL AUDITS.—Section 103A of the Sikes Act (16 U.S.C. 670c–1) is amended by adding at the end the following:

“(d) ANNUAL AUDITS.—The Inspector General of the Department of Defense shall annually audit each natural resources project funded with amounts available to the Department of Defense under this Act that is not on a military installation.”.

SEC. 2. FACILITATION OF INTERAGENCY COOPERATION IN CONSERVATION PROGRAMS OF THE DEPARTMENTS OF DEFENSE, AGRICULTURE, AND INTERIOR TO AVOID OR REDUCE ADVERSE IMPACTS ON MILITARY READINESS ACTIVITIES.

Section 2684a of title 10, United States Code, is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j); and

(2) by inserting after subsection (g) the following new subsection (h):

“(h) INTERAGENCY COOPERATION IN CONSERVATION PROGRAMS TO AVOID OR REDUCE ADVERSE IMPACTS ON MILITARY READINESS ACTIVITIES.—In order to facilitate interagency cooperation and enhance the effectiveness of actions that will protect both the environment and military readiness, the recipient of funds provided pursuant to an agreement under this section or under the Sikes Act (16 U.S.C. et seq.) may, with regard to the lands and waters within the scope of the agreement, use such funds to satisfy any matching funds or cost-sharing requirement of any conservation program of the Department of Agriculture or the Department of the Interior notwithstanding any limitation of such program on the source of matching or cost-sharing funds.”.

SEC. 3. SUNSET.

This Act and the provisions of law enacted by the amendments made by this Act shall expire on October 1, 2019, except that any cooperative agreement referred to in such provisions that is entered into on or before September 30, 2019, shall continue according to its terms and conditions as if this Act has not expired.

PURPOSE OF THE BILL

The purpose of H.R. 1080, as ordered reported, is to amend the Sikes Act to promote the use of cooperative agreements under such Act for land management related to Department of Defense readiness activities and to amend title 10, United States Code, to facilitate interagency cooperation in conservation programs to avoid or reduce adverse impacts on military readiness activities.

BACKGROUND AND NEED FOR LEGISLATION

The Department of Defense (DOD) controls over 28 million acres of valuable fish and wildlife habitat at 511 military installations nationwide. These lands contain a wealth of plant and animal life, wetlands for migratory birds and 420 federally listed species. Enacted in 1960, the Sikes Act (16 U.S.C. 670 et seq.) has been extended a number of times with the most recent effort in the National Defense Authorization Act for Fiscal Year 2010. Under Public Law 111–84, Title I of the Sikes Act was extended until September 30, 2014, and the existing annual funding levels of \$1.5 million for DOD and \$3 million for the Department of the Interior

through the Fish and Wildlife Service (FWS) were retained. However, neither DOD nor FWS receives a direct appropriation for this program. Instead, the nearly \$60 million that has been spent during the past ten fiscal years in support of Sikes Act activities has been consistently funded through general administrative funds.

Under current law, DOD has the authority to perform natural resource conservation projects on off-installation lands where it does not have a real property interest. However, the DOD does not have the authority to make long-term financial obligations to an off-site project. The primary purpose of these projects is to obtain 'credit' from the FWS for these efforts and corresponding relief from some Endangered Species Act (ESA) obligations on military installations throughout this country. The lack of a long-term commitment has made it difficult to obtain 'credit' from FWS and, therefore, creates uncertainty in the type of military training and readiness activities that can be planned in the future.

DOD is particularly concerned that over the next four years the FWS has set deadlines to make final listing and critical habitat decisions on as many as 779 candidate species under the ESA, as part of the Interior Department's 2011 ESA multi-species settlements with the Center for Biological Diversity and the WildEarth Guardians. These settlements were negotiated without input from affected states or other entities and are costing millions to implement, just for paperwork. Based on its analysis, 110 of these species will affect military bases. In fact, eight species could cause severe impacts to military readiness and 29 species would cause a moderate amount of problems. Among the bases that are most likely to be significantly affected by these listings are Fork Polk, Louisiana; Hawthorne Army Depot, Nevada; Joint Base Lewis McChord, Washington; Marine Corps Base Camp Lejeune, North Carolina; and Melrose Range, New Mexico.

Under H.R. 1080, the ability of DOD to obtain "credit" from the FWS is enhanced by amending the Sikes Act to allow DOD to make long-term financial commitments through cooperative agreements for natural resource conservation projects. Furthermore, DOD will be able to use funds provided to it under the Readiness and Environmental Protection Initiative and the Sikes Act to qualify as matching or cost-sharing funds in connection with certain conservation programs of FWS, the U.S. Forest Service, the Natural Resources Conservation Service, the States and private landowners. Under the U.S. Department of Agriculture Farm and Rangeland Protection Program and other conservation programs, private landowners and the States are generally required to provide a matching amount of money equal to 20 percent of a project. The provision would allow DOD to use its money to serve as the match in those instances where the other partner lacks the resources to complete the project.

With the enactment of these provisions, the DOD is confident that these mitigation credits will be forthcoming. This belief is reinforced by the precedent of two current off-installation projects at Fort Hood, Texas, and Marine Corps Base Camp Lejeune, North Carolina. While these are not Sikes Act projects, FWS has indicated that the U.S. Army could "bank" credits for new on-base training activities as a result of DOD efforts to assist in the recovery of the golden-cheeked warbler. In the case of Camp Lejeune,

FWS has apparently pledged to relax the Marine Corps' on-base recovery goals for the red-cockaded woodpecker because of the Corps' efforts to protect and restore Longleaf pine habitat essential to the survival of these birds in this region.

During Full Natural Resources Committee consideration of H. R. 1080, the Committee adopted four amendments offered by Congressman John Fleming (R-LA). These amendments significantly improved the underlying bill by prohibiting the use of Sikes Act funds for the acquisition of fee title land; limited the payment of administrative fees or costs to 3 percent of the total project cost; required an annual audit of all funds spent on off-installation natural resources projects; and stipulated that this authority will sunset on September 30, 2019.

COMMITTEE ACTION

H.R. 1080 was introduced on March 12, 2013, by Delegate Madeline Bordallo (D-GU). The bill was referred primarily to the Committee on Armed Services, and in addition to the Committee on Natural Resources. Within the Committee on Natural Resources, the bill was referred to the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs. On March 21, 2013, the Subcommittee held a hearing on the bill. On May 15, 2013, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs was discharged by unanimous consent. Congressman John Fleming (R-LA) offered an en bloc amendment consisting of amendments .003, .004, .005 and .007 to the bill; the en bloc amendment was adopted by voice vote. The bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 1080—A bill to amend the Sikes Act to promote the use of cooperative agreements under such act for land management related to Department of Defense readiness activities and to amend title 10, United States Code, to facilitate interagency cooperation in conservation programs to avoid or reduce adverse impacts on military readiness activities

H.R. 1080 would amend the Sikes Act to allow the Department of Defense (DoD) to provide lump-sum payments to nonfederal entities that enter into cooperative agreements to maintain and improve natural resources at certain military sites. The bill also would allow those entities to invest funds provided to carry out those activities and to use such funds to meet the cost-sharing requirements for certain federal conservation programs. Finally, the bill would require DoD to conduct annual audits of each project carried out under the Sikes Act.

CBO estimates that changing the method of payment to nonfederal entities and allowing additional uses for funds provided to such entities under the Sikes Act would have no significant impact on the federal budget. Based on information regarding the number of projects carried out under the Sikes Act each year, CBO also estimates that performing the annual audits of those projects would cost less than \$500,000 a year. Enacting H.R. 1080 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1080 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that changing the method of payment to nonfederal entities and allowing additional uses for funds provided to such entities under the Sikes Act would have no significant impact on the federal budget. Based on information regarding the number of projects carried out under the Sikes Act each year, CBO also estimates that performing the annual audits of those projects would cost less than \$500,000 a year.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to amend the Sikes Act to promote the use of cooperative agreements under such Act for land management related to Department of Defense readiness activities and to amend title 10, United States Code, to facilitate interagency cooperation in conservation programs to avoid or reduce adverse impacts on military readiness activities.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e),

9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does establish a program of the federal government known to be duplicative of another federal program. Such program was identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs. More specifically under the general category of Fish and Wildlife Management Assistance by the U.S. Fish and Wildlife Service, the Sikes Act was grouped with seven other federal laws that provide funding for this activity, including the Fish and Wildlife Act of 1956, the Fish and Wildlife Coordination Act of 1958, the Alaska National Interest Lands Conservation Act, the Marine Mammal Protection Act of 1972, the Fish and Wildlife Conservation Act of 1980, the Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990, and the Lacey Act. Related programs were identified as Sport Fish Restoration Program and the Partners for Fish and Wildlife. In addition, under the category of Recovery Act Fund—Habitat Enhancement, Restoration and Improvement by the U.S. Fish and Wildlife Service, the Sikes Act was grouped with nine other statutes. In addition to many of the laws listed for Fish and Wildlife Management Assistance, this list also included the American Recovery and Reinvestment Act of 2009, the Great Lakes Fish and Wildlife Restoration Act, the Partners for Fish and Wildlife Act, and the Endangered Species Act. Related programs for this activity were identified as Sport Fish Restoration program, Fish and Wildlife Management Assistance, Coastal Program, Partners for Fish and Wildlife and Pollution Prevention Grants Program. However, as explained in the background and need portion of this report, Congress does not provide specific appropriations to implement the Sikes Act, but rather the Fish and Wildlife Service takes general funds for these activities, from other statutes and programs described in this section, and uses to meet the goals of the Sikes Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

SIKES ACT

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TITLE I—CONSERVATION PROGRAMS ON MILITARY
INSTALLATIONS

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SEC. 103A. COOPERATIVE AND INTERAGENCY AGREEMENTS FOR
LAND MANAGEMENT ON INSTALLATIONS.

(a) **AUTHORITY OF SECRETARY OF MILITARY DEPARTMENT.**—The Secretary of a military department may enter into cooperative agreements with States, local governments, Indian tribes, non-governmental organizations, and individuals, and into interagency agreements with the heads of other Federal departments and agencies, to provide for the following:

(1) The maintenance and improvement of natural resources on, or to benefit natural and historic research on, military installations and State-owned National Guard installations.

(2) The maintenance and improvement of natural resources located off of a military installation or State-owned National Guard installation if the purpose of the cooperative agreement or interagency agreement is to relieve or eliminate current or anticipated challenges that could restrict, impede, or otherwise interfere with, whether directly or indirectly, current or anticipated military activities.

(b) **MULTIYEAR AGREEMENTS.**—(1) 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 or interagency agreement entered into under subsection (a) or through an agency agreement under section 1535 of title 31, United States Code, during any 18-month period beginning in that fiscal year, without regard to whether the agreement crosses fiscal years.

(2) *In the case of a cooperative agreement under subsection (a)(2), funds referred to in paragraph (1)—*

(A) *may be paid in a lump sum and include an amount intended to cover the future costs of the natural resource maintenance and improvement activities provided for under the agreement; and*

(B) *may be invested by the recipient in accordance with the recipient's own guidelines for the management and investment of financial assets, and any interest or income derived from such investment may be applied for the same purposes as the principal.*

[(c) **AVAILABILITY OF FUNDS; AGREEMENTS UNDER OTHER LAWS.**—Cooperative agreements and interagency 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, United States Code, applies.]

(c) **AVAILABILITY OF FUNDS AND RELATION TO OTHER LAWS.**—(1) *Cooperative agreements and interagency agreements entered into under this section shall be subject to the availability of funds.*

(2) *Notwithstanding chapter 63 of title 31, United States Code, a cooperative agreement under this section may be used to acquire*

property or services for the direct benefit or use of the United States Government.

(3) Amounts available to the Department of Defense that are provided to any Federal, State, local, or nongovernmental entity for conservation and rehabilitation of natural resources in an area that is not on a military installation—

(A) may only be used for payment of direct costs associated with the management of such area; and

(B) may be used to pay not more than 3 percent of total project administrative costs, fees, and management charges.

(4) Amounts available to the Department of Defense may not be used under this Act to acquire fee title interest in real property for natural resources projects that are not on a military installation.

(d) ANNUAL AUDITS.—The Inspector General of the Department of Defense shall annually audit each natural resources project funded with amounts available to the Department of Defense under this Act that is not on a military installation.

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TITLE 10, UNITED STATES CODE

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SUBTITLE A—GENERAL MILITARY LAW

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 159—REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NON-EXCESS PROPERTY

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§ 2684a. Agreements to limit encroachments and other constraints on military training, testing, and operations

(a) AGREEMENTS AUTHORIZED.—The Secretary of Defense or the Secretary of a military department may enter into an agreement with an eligible entity or entities described in subsection (b) to address the use or development of real property in the vicinity of, or ecologically related to, a military installation or military airspace for purposes of—

(1) limiting any development or use of the property that would be incompatible with the mission of the installation;

(2) preserving habitat on the property in a manner that—

(A) is compatible with environmental requirements; and

(B) may eliminate or relieve current or anticipated environmental restrictions that would or might otherwise restrict, impede, or otherwise interfere, whether directly or

- indirectly, with current or anticipated military training, testing, or operations on the installation; or
- (3) protecting Clear Zone Areas from use or encroachment that is incompatible with the mission of the installation.
- (b) ELIGIBLE ENTITIES.—An agreement under this section may be entered into with any of the following:
 - (1) A State or political subdivision of a State.
 - (2) A private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal, as determined by the Secretary concerned.
- (c) INAPPLICABILITY OF CERTAIN CONTRACT REQUIREMENTS.—Notwithstanding chapter 63 of title 31, an agreement under this section that is a cooperative agreement or a grant may be used to acquire property or services for the direct benefit or use of the United States Government.
- (d) ACQUISITION AND ACCEPTANCE OF PROPERTY AND INTERESTS.—(1) An agreement with an eligible entity or entities under this section shall provide for—
 - (A) the acquisition by the entity or entities of all right, title, and interest in and to any real property, or any lesser interest in the property, as may be appropriate for purposes of this section; and
 - (B) the sharing by the United States and the entity or entities of the acquisition costs in accordance with paragraph (3).
- (2) Property or interests may not be acquired pursuant to the agreement unless the owner of the property or interests consents to the acquisition.
- (3) An agreement with an eligible entity under this section may provide for the management of natural resources on, and the monitoring and enforcement of any right, title, or interest in, real property in which the Secretary concerned acquires any right, title, or interest in accordance with this subsection and for the payment by the United States of all or a portion of the costs of such natural resource management and monitoring and enforcement if the Secretary concerned determines that there is a demonstrated need to preserve or restore habitat for the purpose described in subsection (a)(2). Any such payment by the United States—
 - (A) may be paid in a lump sum and include an amount intended to cover the future costs of natural resource management and monitoring and enforcement; and
 - (B) may be placed by the eligible entity in an interest-bearing account, and any interest shall be applied for the same purposes as the principal.
- (4)(A) The Secretary concerned shall determine the appropriate portion of the acquisition costs to be borne by the United States in the sharing of acquisition costs of real property, or an interest in real property, under paragraph (1)(B).
- (B) In lieu of or in addition to making a monetary contribution toward the cost of acquiring a parcel of real property, or an interest therein, pursuant to an agreement under this section, the Secretary concerned may convey, using the authority provided by section 2869 of this title, real property described in paragraph (2) of subsection (a) of such section, subject to the limitation in paragraph (3) of such subsection.

(C) The portion of acquisition costs borne by the United States under subparagraph (A), either through the contribution of funds or excess real property, or both, may not exceed an amount equal to, at the discretion of the Secretary concerned—

(i) the fair market value of any property or interest in property to be transferred to the United States upon the request of the Secretary concerned under paragraph (5); or

(ii) the cumulative fair market value of all properties or interests to be transferred to the United States under paragraph (5) pursuant to an agreement under subsection (a).

(D) The portion of acquisition costs borne by the United States under subparagraph (A) may exceed the amount determined under subparagraph (C), but only if—

(i) the Secretary concerned provides written notice to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives containing—

(I) a certification by the Secretary that the military value to the United States of the property or interest to be acquired justifies a payment in excess of the fair market value of the property or interest; and

(II) a description of the military value to be obtained; and

(ii) the contribution toward the acquisition costs of the property or interest is not made until at least 14 days after the date on which the notice is submitted under clause (i) or, if earlier, at least 10 days after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title.

(E) The contribution of an entity or entities to the acquisition costs of real property, or an interest in real property, under paragraph (1)(B) may include, with the approval of the Secretary concerned, the following or any combination of the following:

(i) The provision of funds, including funds received by such entity or entities from a Federal agency outside the Department of Defense or a State or local government in connection with a Federal, State, or local program.

(ii) The provision of in-kind services, including services related to the acquisition or maintenance of such real property or interest in real property.

(iii) The exchange or donation of real property or any interest in real property.

(5)(A) The agreement shall require the entity or entities to transfer to the United States, upon the request of the Secretary concerned, all or a portion of the property or interest acquired under the agreement or a lesser interest therein. No such requirement need be included in the agreement if the property or interest is being transferred to a State, or the agreement requires it to be subsequently transferred to a State, and the Secretary concerned determines that the laws and regulations applicable to the future use of such property or interest provide adequate assurance that the property concerned will be developed and used in a manner appropriate for purposes of this section. The Secretary shall limit such transfer request to the minimum property or interests necessary to

ensure that the property concerned is developed and used in a manner appropriate for purposes of this section.

(B) Notwithstanding subparagraph (A), if all or a portion of the property or interest acquired under the agreement is subsequently transferred to the United States and administrative jurisdiction over the property is under a Federal official other than a Secretary concerned, the Secretary concerned and that Federal official shall enter into a memorandum of agreement providing, to the satisfaction of the Secretary concerned, for the management of the property or interest concerned in a manner appropriate for purposes of this section. Such memorandum of agreement shall also provide that, should it be proposed that the property or interest concerned be developed or used in a manner not appropriate for purposes of this section, including declaring the property to be excess to the agency's needs or proposing to exchange the property for other property, the Secretary concerned may request that administrative jurisdiction over the property be transferred to the Secretary concerned at no cost, and, upon such a request being made, the administrative jurisdiction over the property shall be transferred accordingly.

(6) The Secretary concerned may accept on behalf of the United States any property or interest to be transferred to the United States under the agreement.

(7) For purposes of the acceptance of property or interests under the agreement, the Secretary concerned may accept an appraisal or title documents prepared or adopted by a non-Federal entity as satisfying the applicable requirements of section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651) or section 3111 of title 40, if the Secretary concerned finds that the appraisal or title documents substantially comply with the requirements.

(e) ACQUISITION OF WATER RIGHTS.—The authority of the Secretary concerned to enter into an agreement under this section for the acquisition of real property (or an interest therein) includes the authority to support the purchase of water rights from any available source when necessary to support or protect the mission of a military installation.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary concerned may require such additional terms and conditions in an agreement under this section as the Secretary considers appropriate to protect the interests of the United States.

(g) ANNUAL REPORTS.—(1) Not later than March 1 each year, the Secretary of Defense shall, in coordination with the Secretaries of the military departments and the Director of the Department of Defense Test Resource Management Center, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the projects undertaken under agreements under this section.

(2) Each report under paragraph (1) shall include the following:

(A) A description of the status of the projects undertaken under agreements under this section.

(B) An assessment of the effectiveness of such projects, and other actions taken pursuant to this section, as part of a long-term strategy to ensure the sustainability of military test and training ranges, military installations, and associated airspace.

(C) An evaluation of the methodology and criteria used to select, and to establish priorities, for projects undertaken under agreements under this section.

(D) A description of any sharing of costs by the United States and eligible entities under subsection (d) during the preceding year, including a description of each agreement under this section providing for the sharing of such costs and a statement of the eligible entity or entities with which the United States is sharing such costs.

(E) Such recommendations as the Secretary of Defense considers appropriate for legislative or administrative action in order to improve the efficiency and effectiveness of actions taken pursuant to agreements under this section.

(h) INTERAGENCY COOPERATION IN CONSERVATION PROGRAMS TO AVOID OR REDUCE ADVERSE IMPACTS ON MILITARY READINESS ACTIVITIES.—In order to facilitate interagency cooperation and enhance the effectiveness of actions that will protect both the environment and military readiness, the recipient of funds provided pursuant to an agreement under this section or under the Sikes Act (16 U.S.C. et seq.) may, with regard to the lands and waters within the scope of the agreement, use such funds to satisfy any matching funds or cost-sharing requirement of any conservation program of the Department of Agriculture or the Department of the Interior notwithstanding any limitation of such program on the source of matching or cost-sharing funds.

[(h)] (i) FUNDING.—(1) Except as provided in paragraph (2), funds authorized to be appropriated for operation and maintenance of the Army, Navy, Marine Corps, Air Force, or Defense-wide activities may be used to enter into agreements under this section.

(2) In the case of a military installation operated primarily with funds authorized to be appropriated for research, development, test, and evaluation, funds authorized to be appropriated for the Army, Navy, Marine Corps, Air Force, or Defense-wide activities for research, development, test, and evaluation may be used to enter into agreements under this section with respect to the installation.

[(i)] (j) DEFINITIONS.—In this section:

(1) The term “Secretary concerned” means the Secretary of Defense or the Secretary of a military department.

(2) The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the territories and possessions of the United States.

(3) The term “Clear Zone Area” means an area immediately beyond the end of the runway of an airfield that is needed to ensure the safe and unrestricted passage of aircraft in and over the area.

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