

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARIES OF DEFENSE  
SERVICE CHIEFS

SUBJECT: Senior Readiness Oversight Council Approval of 2003 Sustainable Ranges  
Action Agenda

The Senior Readiness Oversight Council meeting previously scheduled on December 10<sup>th</sup>, 2002 has been cancelled. Instead, a number of important issues for decision on the topic of sustainable ranges will be addressed through a "paper" SROC. The attached briefing charts reflect the recommendations of the Sustainable Ranges Overarching Integrated Product Team (OIPT) on a course of action to counter encroachment in the coming year. These are submitted to the SROC membership for your review. Once approved, the recommendations will be presented to the Deputy Secretary for final implementation authorization.

The past year's sustainable ranges efforts have produced some successes, including the passage of three DoD-sponsored Readiness and Range Preservation Initiative (RRPI) proposals in the FY2003 Defense Authorization Bill. But there is a long way to go. A brief summary of key lessons learned begins the briefing (Slide 3). The basic breakdown of the proposed 2003 sustainable ranges effort is shown in Slide 4 ("2003 Scope of Activities"). Slides 5 and 6 address next year's legislative proposals and the overall strategy for submittal, perhaps the most time-urgent issue for SROC decision. Slides 7 and 8 then lay out the proposed regulatory and administrative proposals to be pursued on an interagency basis, along with an already in-process approach for this effort. Slide 9 lays out a recommendation for SecDef guidance to the Services for a national security exemptions process. Slide 10 describes DoD's progress so far on a Congressional Section 1041 reporting requirement, and recommends a road ahead. Slides 11 and 12 describe the outreach approach the IPT intends to implement in the coming year. Slide 13 identifies IPT plans for working with the states to forward range sustainment goals. Finally, Slide 14 summarizes a number of ongoing "self help" initiatives which DoD can undertake internally to combat encroachment; most of these efforts are already underway. Taken together, the 2003 sustainable ranges agenda provides a comprehensive approach to resolving significant encroachment issues and smoothing the way for long-term range sustainment.

Your Service OIPT representatives and staff should be familiar with this material. Please also feel free to contact my Sustainable Ranges lead POC, Mr. John Walsh, at 695-1760 for additional information. My SROC point of contact is Colonel Neil C. Lanzendorf, at 693-5584/5585.

**Paul W. Mayberry**  
**Executive Secretary**  
**Senior Readiness Oversight Council**

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**Sustainable Ranges  
2003 Decision Briefing to the  
Deputy Secretary of Defense**

**Draft for SROC Review**



**10 December, 2002**

This briefing presents the recommendations of the Senior Readiness Oversight Council and the Sustainable Ranges Integrated Product Team for actions in the coming year to counteract the effects of encroachment and to posture DoD ranges for long-term mission sustainment. These recommendations are being staffed for SROC member review and comment prior to being briefed to the Deputy Secretary for final approval and implementation.

The recommendations were developed as a consensus product of the Sustainable Ranges Overarching Integrated Product Team (OIPT) and the Working Integrated Product Team (WIPT), which were established at the request of the Deputy Secretary of Defense in December 2001 in order to address range sustainment issues.



## SROC BRIEFING TOPICS

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- Sustainable Ranges 2002 Lessons Learned
- Sustainable Ranges 2003 Scope of Activities
- 2003 Action Recommendations:
  - Legislative Strategy and Proposals
  - Regulatory/Administrative Agenda and Approach
  - Exemptions & ESA Compliance Policy
  - Section 1041—Way Forward
  - Outreach and Stakeholder Involvement
  - Engagement with States
  - Internal Initiatives
- Summary of Key Recommendations

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The charts that follow present recommendations and/or supporting information on each of the briefing topics shown.

Sustainable Ranges 2002 Lessons Learned provides a high-level summary of DoD observations on the past year's sustainable ranges process.

Sustainable Ranges 2003 Scope of Activities is a schematic of range sustainment action areas the IPT proposes to address in the coming year.

The 2003 Action Recommendations provide a summary and the approach recommended by the IPT in each key action area shown. Further discussion is provided as facing page text on the charts associated with each bullet.

Key recommendations are reiterated on the last slide as a summary.



## 2002 LESSONS LEARNED INITIAL OBSERVATIONS

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- Long campaign: need to get off defensive
- Increase emphasis on regulatory and administrative options
- Need quantification of our case
- Need more "Operator" participation throughout process
- Outreach effort needs better definition
- Insufficient IPB
- Range Sustainment Initiative needs to be "formalized"
- Inadequate resources
- Variety of views on scope of legislation

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The IPT chartered the development of a summary of lessons learned during the course of the past year's range sustainment effort. An extensive set of interviews with participants and observers at both the leadership and staff levels of the sustainable range and the Readiness and Range Preservation Initiative (RRPI) efforts was conducted. While there were a range of views on some subjects, there was broad agreement on the need for increased focus on the above areas.

The results of the 2002 RRPI legislative effort show that resolution of encroachment concerns will require a multi-year campaign. It is also important that DoD make a more proactive case for the need to address encroachment impacts on our ranges.

The legislative thrust in 2002 was not balanced with equally aggressive pursuit of regulatory or administrative clarification, which this year's agenda addresses.

Insufficient quantification of encroachment impacts and the link to readiness was cited repeatedly by GAO, Congress, and critics of the RRPI initiative, and DoD needs to improve data.

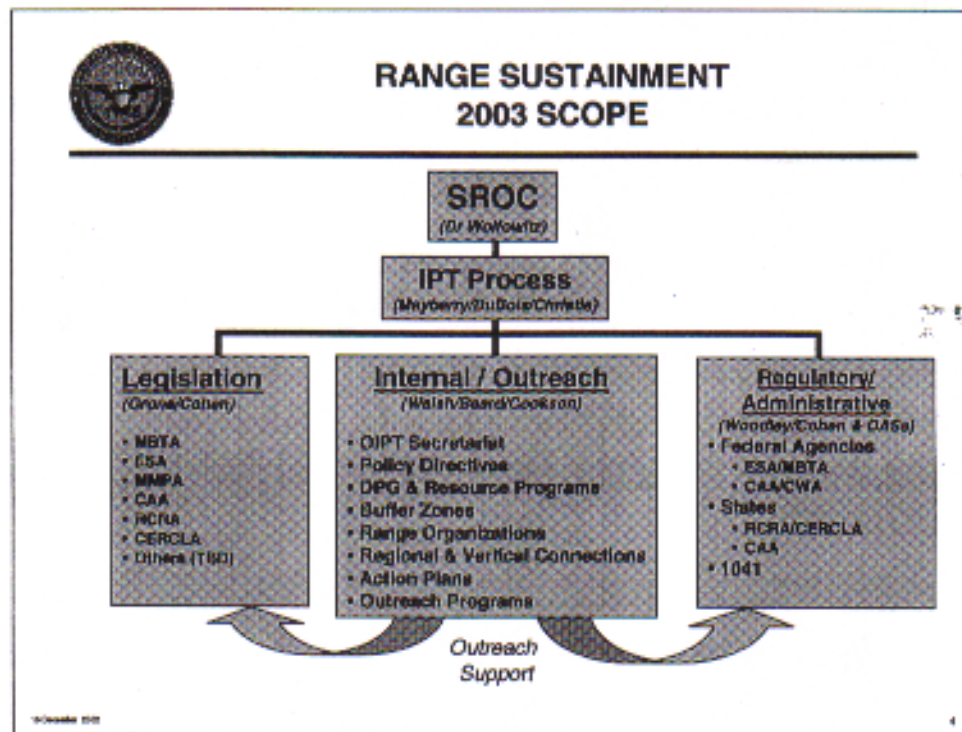
Continued emphasis on operator involvement in the initiative is needed

A strong outreach effort is critical to success, and needs to be better defined and more systematically implemented.

Better and more sustained "Intelligence Preparation of the Battlefield" is needed to better understand and respond to the positions of other stakeholders on sustainable range issues.

The sustainable range initiative to date has relied heavily a working group approach involving a limited number of Service and OSD staff with many other responsibilities. There is no formal "sustainable ranges" program established. Many observers cited a need for a more rigorous and well-defined DoD program, as well as the need for more resources to address key actions.

Opinions on the number and thrust of the 2002 RRPI legislative proposals were mixed, with views roughly split on whether the scope was too ambitious or not ambitious enough

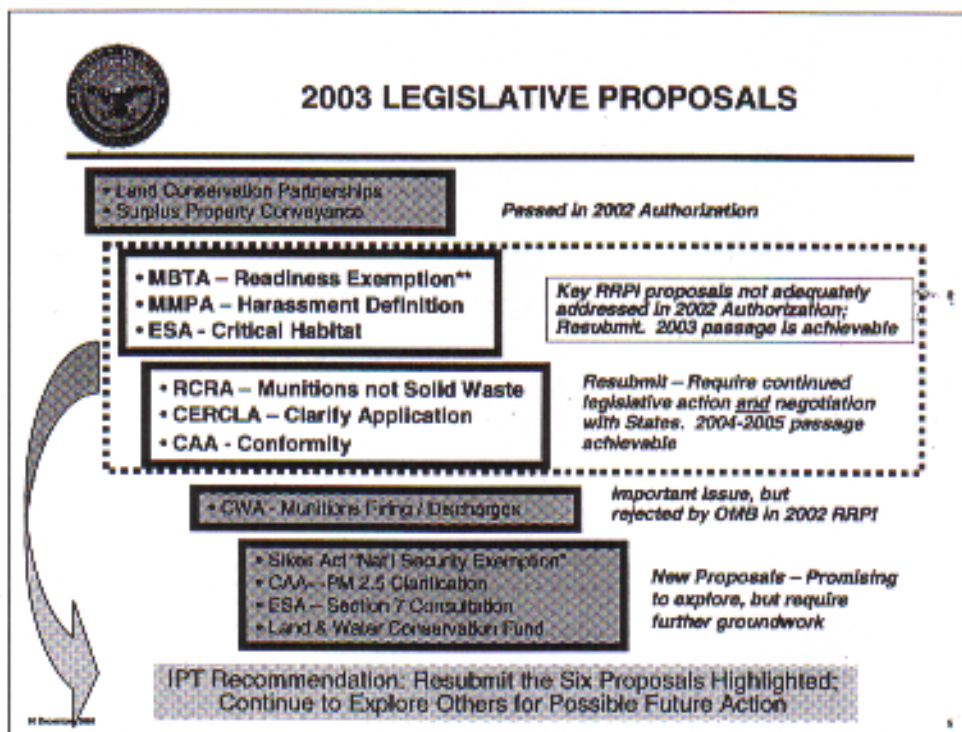


**IPT Process.** The Integrated Product Team (OIPT and WIPT) will continue to oversee the Range Sustainment Initiative in 2003, and will report to the SROC. The major action thrusts will be on 1) Legislation, 2) Internal Initiatives and Outreach, and 3) Regulatory/Administrative Negotiations.

**Legislation.** The legislative thrust will be a focused effort aimed at 2003 passage or advancement towards passage of specific legislative proposals clarifying aspects of the Migratory Bird Treaty Act (MBTA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), the Clean Air Act (CAA), the Resource Conservation and Recovery Act (RCRA), and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The legislative strategy is addressed further in Charts 5 and 6.

**Internal/Outreach.** A number of important range sustainment initiatives internal to DoD will be pursued by the IPT; most of these are ongoing efforts that will be continuing into 2003. An issue-focused and results-oriented outreach program will also be pursued to support both the DoD internal initiatives and the legislative and regulatory administrative thrusts. Major internal and outreach topics are shown in the middle block above, and discussed further in Charts 12-14.

**Regulatory/Administrative.** As identified in the lessons learned, regulatory and administrative efforts in 2002 were insufficient, and will be vigorously worked in 2003. Designated DoD leads will form working teams charged with negotiating regulatory or administrative adjustments to aspects of the ESA, MBTA, CAA and Clean Water Act (CWA) with the appropriate federal agencies (See Charts 7 and 8). A similar team will work with the States to improve their understanding and support for proposed DoD RCRA/CERCLA/CAA adjustments (Chart 11). The IPT will also continue to develop a proposed DoD Section 1041 interagency coordination and dispute resolution process in cooperation with the Administration (see Chart 10).



The two land proposals in the first block of this chart were passed in this past year's Defense Authorization Bill, and will be important to future range sustainment buffer zone and range sustainment efforts.

***The six legislative proposals highlighted in the 2<sup>nd</sup> and 3<sup>rd</sup> block above should be included in this year's Range Sustainment package to be forwarded to Congress.*** The proposals would clarify key aspects of the Migratory Bird Treaty Act (MBTA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), the Clean Air Act (CAA), the Resource Conservation and Recovery Act (RCRA), and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) which have been identified over the past two years as major impediments to training and range sustainment. Backup Charts 17-22 provide additional description of these six proposals.

The MBTA and MMPA proposals merit special mention. The recent Authorization Bill passed by Congress did include an MBTA provision, but it provides only a temporary exemption and requires DoD to do significant monitoring and mitigation and to work with the Interior Department to craft a permanent exemption regulation. It is not the more appropriate permanent legislative exemption DoD sought, and for this reason, the IPT conditionally recommends that last year's proposal be resubmitted in 2003 as one of the six proposed. However, the Navy believes, and the IPT concurs, that further discussion with Congressional insiders is needed before a final decision to resubmit the MBTA language in 2003. Due to recent litigation on the Navy's SURTASS LFA system, the Navy believes that additional changes are needed to the MMPA provision. However, such changes are not recommended unless both the National Oceanographic and Atmospheric Administration (NOAA) and OMB agree to the suggested changes; if either objects, the MMPA provision as currently written should be forwarded.

The DoD proposal to clarify that munitions firings do not constitute discharges of hazardous materials under the Clean Water Act (CWA) did not get through last year's OMB vetting process, and is not seen as a viable candidate for introduction or passage this year.

Four new proposals were advanced within the IPT legislative review process this year, but ultimately the OIPT does not recommend any to be included in this year's package. All address range sustainment issues where DoD would benefit from relief, legislative or otherwise. However, these proposals are not yet well-defined or fully vetted within the Department. They also would engender significant opposition, as all four would entail significant changes to major environmental statutes.



## PROPOSED 2003 LEGISLATIVE STRATEGY

2002 Experience: Each legislative proposal was addressed independently by Congress after submittal

- Consensus IPT recommendation: Submit all previously OMB-approved proposals
- Work each proposal independently; develop multi-vectored approach led by most concerned party to Committee(s) of Jurisdiction
- Action Team executes legislative strategy
- IPT tracks effort and integrates with other initiatives

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The content of and execution strategy behind DoD's 2003 Range Sustainment legislative package to Congress is arguably the most time-urgent and politically important issue for SROC review and approval in this decision package. A major factor in the limited success of last year's Readiness and Range Preservation Initiative legislative package was its late April delivery to Congress, due to the lengthy OMB and federal agency review process it went through. In addition, there was not a concentrated or early enough outreach focus on the specific committees of jurisdiction for each environmental law addressed by the proposals. To succeed in 2003, DoD must not repeat these mistakes. The IPT plan outlined above is intended to address these concerns.

There are strong indications that the proposals successfully vetted through OMB last year (the six recommended on the previous slide) will not have to undergo any such prolonged review process, and therefore can be worked with the Congressional committees of jurisdiction in a much more timely manner. However, feedback from OMB and Congress do indicate that inclusion of any proposals not previously vetted would reopen the OMB-agency review process and could induce additional time and risk into advancing the DoD legislative agenda. The IPT, in making its recommendations, has placed heavy weight on this information.

The Legislative Team, with IPT support, will work each 2003 proposal independently with the Committee(s) of Jurisdiction in the House and Senate to help ensure passage. The Legislative Team concept will bring a more focused and dedicated cadre of DoD personnel to bear in advancing each proposal. The IPT will provide outreach and other technical and administrative support to the Legislative Team, and will coordinate and integrate the legislative effort with the regulatory/administrative negotiations, state coordination, and other IPT activities.





## REGULATORY AND ADMINISTRATIVE PROPOSALS

Regulatory Proposal	Federal Regulator
MBTA—Possible expected DoI rulemaking to implement possible legislative mandate	Department of the Interior (DOI)
ESA—Adjust Section 7 consultation threshold to “likely to adversely affect”	DOI / Department of Commerce (DOC)
ESA—Provide for a Biological Opinion and Critical Habitat appeal process	DOI/DOC
ESA—Provide scientific dispute resolution for Biological Opinions and Critical Habitat designations	DOI/DOC
CAA—Broaden existing regulatory exemption for warbirds/emergencies	Environmental Protection Agency (EPA)
Administrative Proposal	Federal Administrator
MBTA—Possible DoD inventory of mitigation and monitoring to implement possible legislative mandate	DoD
ESA—Increase take limit flexibility	DOI/DOC
ESA—Provide DoD representation in recovery planning	DOI/DOC
CWA—Presidential Regulation re. ordinance in water (administrative process)	EPA
General—Pursue Section 1041 Executive Order	OMB

Recommendation: Pursue All the Above in 2003

Regulatory and administrative negotiations are a central focus of IPT sustainable range efforts in 2003. The chart above identifies ten areas where either regulatory or administrative adjustments would provide great benefit to DoD in reducing the impacts of encroachment and increasing long-term range sustainability. Each of these proposals was identified by the IPT process as a valid topic that can and should be addressed by working directly with its responsible Federal Agency. The agency with lead responsibility for these issues is shown in the right-hand column.

Five of the ten issues will entail adjustments to regulations or administrative rules used by the Department of the Interior (DOI) and the Department of Commerce (DOC) in enforcing the Endangered Species Act.

Two of the issues have to do with the MBTA provisions of the recently-passed DoD Authorization Bill, and will entail negotiations between DoD and the Department of the Interior.

Two other provisions deal with desired adjustments to the Environmental Protection Agency (EPA)-administered Clean Air Act or Clean Water Act.

Finally, DoD administrative negotiations with OMB are needed in order to develop an executive order that improves coordination and dispute resolution related to agency actions affecting national security.

***Issue-focused teams should be established to negotiate with the appropriate Federal agencies on these ten identified regulatory and administrative issues.***



## REGULATORY AND ADMINISTRATIVE IMPLEMENTATION STRATEGY

OSD ADUSD(Environment) & OGC (Environment and Installations)  
Integration Support & Tracking

ESA Focus	MBTA Focus	CWA Focus	CAA Focus
<b>Lead:</b> DAS AF (Environment)	<b>Lead:</b> DAS Navy (Environment)	<b>Lead:</b> DAS Army (Environment)	<b>Lead:</b> DAS Navy (Environment)
<b>Team:</b> HQ, Legal, and Field Reps	<b>Team:</b> HQ, Legal, and Field Reps	<b>Team:</b> HQ, Legal, and Field Reps	<b>Team:</b> HQ, Legal, and Field Reps

- Service I&E Deputy Assistant Secretaries will lead Focus Area Teams
- OSD and Services will provide cross-topic support as appropriate
- ADUSD(E), OGC(E&I), and IPT will provide integration and outreach support

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In order to provide the continuity and technical expertise required to initiate and sustain a dialog with the federal agencies in charge of regulatory and administrative oversight of the ESA, MBTA, CWA and CAA, designated DoD leads will form working teams charged with negotiating regulatory or administrative adjustments with the appropriate federal agencies. The IPT has already coordinated with the Deputy Assistant Secretaries for Environment in each of the Services, and they have agreed to serve as the leads as shown above for each regulatory or administrative subject area.

The Deputy Assistant Secretaries leading each area are now in the process of setting up teams of personnel, with appropriate headquarters, legal and field experience and expertise to assist in negotiating solutions to the issues identified in the previous chart.

The OSD Assistant Deputy Under Secretary of Defense (Environment) and the Office of General Council (Environment and Installations) will help to integrate and coordinate the activities of the DAS-led negotiating teams. The IPT will provide technical, administrative and outreach support as needed to support their efforts.



## EXEMPTIONS AND ESA COMPLIANCE

- Whether and when DoD should use national security exemptions available under existing environmental laws to redress encroachment has been a major issue in past Congressional hearings and public debate
- The OIPT recommends a SecDef memo providing DoD guidance to the Services on how to assess and process exemption requests
  - Identifies situations to consider exemption requests
  - Directs routing through Services to SecDef for consideration
  - Establishes exemption documentation requirements
- Furthermore, DoD should develop guidance on ESA compliance to assist installations in assessing regulatory burdens and resolving disputes not rising to the level of exemption candidates

Recommendation: Issue Guidance to Services on Exemption Process and ESA Compliance

National security exemption clauses exist in many of this Nation's environmental statutes that would allow senior officials (typically the President, or in the case of the ESA, the Secretary of Defense) to exclude DoD from certain provisions of the operative statute under certain conditions. To date, DoD has not used such exemptions to any extent to address encroachment concerns. Congress and many environmental organizations have criticized the Department for not pursuing these avenues of relief already available to them instead of pursuing new legislation. Though there are many reasons DoD has not made more extensive use of exemptions in the past, the IPT believes it is important that DoD establish the criteria and processes necessary to use them in the future, if and when warranted.

A draft memorandum has been developed and coordinated within the IPT that would provide guidance to the Services on how to assess and process exemption requests in appropriate situations. This memo is attached along with this briefing package for review. ***This exemptions process memorandum be forwarded for SecDef signature.*** It identifies the kinds of situations where exemption requests might be available and should be considered; establishes a process for routing the requests and associated information up through the Services and OSD for SecDef consideration, and provides details on the kind of supporting documentation that would need to be provided.

The Endangered Species Act presents unique challenges to DoD in assessing regulatory burdens and resolving disputes with the Department of Interior while also maintaining readiness. The IPT has determined that better DoD guidance on how ESA requirements should be balanced against readiness concerns needs to be developed and provided to the Services. ***The IPT should draft additional ESA-related guidance for coordination and eventual OSD approval.***



## SECTION 1041

- Congress charged DoD to recommend a process to ensure that national security is considered in other Federal agency decision-making
- DoD's proposed approach is an Executive Order that lays out an interagency notification and dispute resolution process
- DoD has entered into negotiations on this proposal with OMB. They are receptive to the Executive Order concept, with possible additional changes to existing Executive Orders and OMB Circulars
- Negotiations are ongoing. OMB is preparing a passback to DoD

Recommendation: Continue and Escalate OMB Engagement; Push for Early 2003 EO

In the FY2002 Defense Authorization Bill, Congress charged DoD to recommend a process to ensure that national security is considered in other Federal agency decision-making. DoD was tasked to work with the Administration to develop a recommended approach, and to report back to Congress in mid-2002.

As a result of IPT deliberations on this subject, DoD is recommending that an Executive Order be developed and issued that lays out an interagency notification and dispute resolution process. Draft language that could be implemented in an Executive Order was prepared by OSD General Counsel and reviewed and approved by the IPT for OMB consideration

DoD has met with and entered into negotiations on this proposal with OMB. While the process has moved slowly, OMB staff has indicated that they are receptive to the Executive Order approach. They have also indicated that changes to other existing Executive Orders and OMB Circulars could also be used (along with a new EO) to accomplish some of DoD's objectives.

As of early December, negotiations are ongoing. OMB is preparing a passback to DoD that will detail their thoughts based on an internal staffing process. This passback is expected at any time.

***DoD should continue to work with OMB on a Section 1041 process, and pursue the Executive Order approach.*** Depending on the nature of the imminent OMB "passback" response, the IPT is prepared to escalate the level of OMB engagement as necessary to reach agreement early in 2003.



## ENGAGEMENT WITH STATES

- Media Provisions (CERCLA, RCRA, CAA) – Pursue consultations and negotiation, with goal to achieve legislative resolution (preferably with state agreement) in 2004 or 2005
  
- Model State Encroachment Programs:
  - Assess and work with existing State efforts
    - California
    - Arizona
    - Florida
  - Develop model Legislation and/or recommended programs for broader State adoption

Recommendation: Task IPT to Pursue Both Thrusts

DoD's 2002 legislative proposals addressing clarification of the Clean Air Act (CAA), the Resource Conservation and Recovery Act (RCRA), and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) produced significant uncertainty on the part of the States. In fact, State opposition to the proposed changes was an important contributor to DoD's lack of success on these provisions last year.

Better communications with the States will be important to eventual success on these provisions. DoD sustainable range representative, working within the IPT context, have already begun to meet with state representatives and groups in order to increase their understanding of DoD goals and objectives in seeking legislative clarification. ***This work with the states should be sustained throughout the coming year, with a goal of reducing state opposition to these needed changes that will improve chances for passage in 2004 or 2005.***

There is also an important opportunity to address encroachment concerns through legislative and regulatory means at the state and local level. Several states, including California, Arizona and Florida, have passed legislation to counter encroachment on DoD facilities or otherwise help to sustain DoD access to needed test and training land, water or airspace. Such efforts need to be monitored and encouraged, in those states and in others. ***The IPT should undertake to continue and expand DoD efforts to encourage model legislation along the lines of that of the aforementioned states. Where appropriate, DoD should also seek to work with the states on other promising approaches to minimize encroachment impacts at the state or local level.***



## OUTREACH

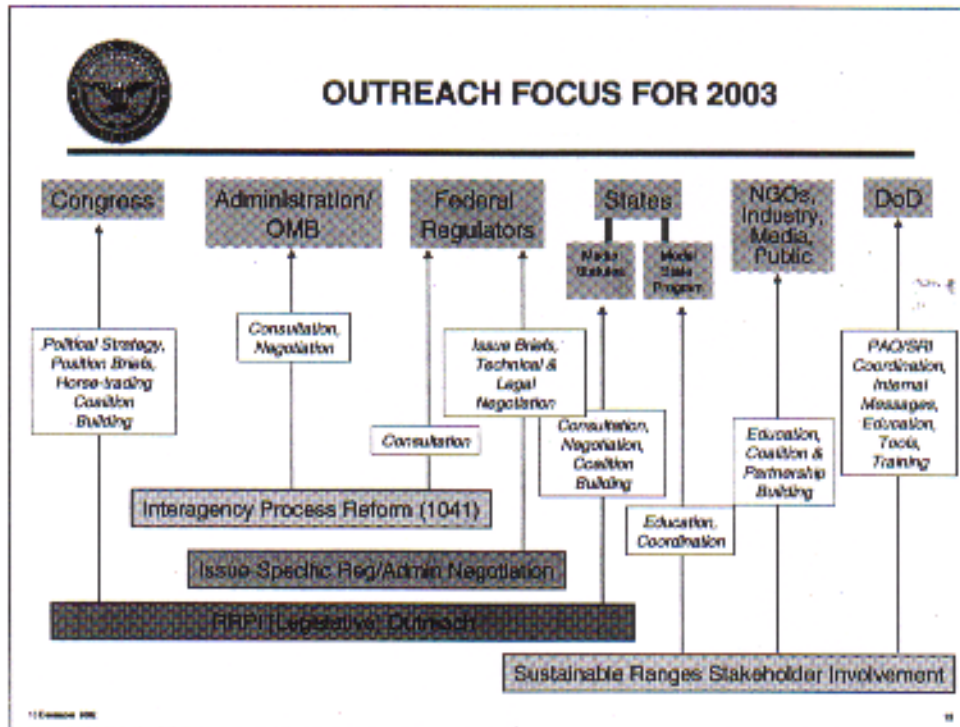
- Outreach and Stakeholder Involvement are fundamental enablers of the Sustainable Ranges strategy
- IPT Approach:
  - Target outreach resources on key Issue Areas
    - Endangered Species Act
    - Urban sprawl and buffer zone creation
    - Land and groundwater protections on live fire ranges
  - Support all major Range Sustainment strategy elements as required
    - Legislative initiative
    - Regulatory and administrative thrust
    - Negotiations with States
    - Internal Process Improvement

Recommendation: Targeted, Results Oriented Outreach Effort for 2003

The need for a targeted and proactive outreach program was clearly substantiated in the lessons learned from last year's overall range sustainment initiative, and in particular during the Readiness and Range Preservation Initiative legislative effort. While last year's outreach workload was significant and involved a great deal of IPT effort, *a more focused Outreach strategy and more effective use of available resources should be implemented over the coming year, with the approach shown in the chart above.*

The IPT approach will focus outreach efforts on key aspects of the legislative, regulatory and internal sustainable ranges agenda for 2003. While all important range sustainment thrusts must have an outreach component, the IPT will look more to the Services to provide outreach support on their key issues. For example, the IPT will look increasingly to the Navy on Marine Mammal Protection Act-related issues, or to the Air Force on airspace concerns. OSD outreach resources will be focused most heavily on those issues affecting multiple Services and OSD, or where a DoD lead is particularly important. Such key focus areas include support to the legislative and regulatory thrusts on the Endangered Species Act, action to counter urban sprawl and create buffer zones, and work with the states on ordnance use effects on groundwater.

That being said, outreach is clearly a fundamental enabler of almost everything the Sustainable Ranges Initiative is trying to achieve. The IPT will work to improve and extend outreach to a wide range of targeted stakeholders over the course of the coming year, to build a foundation for future range sustainment success.



This chart further illustrates the key supporting role that outreach plays in interacting successfully with all the decision makers and stakeholders affecting range sustainment.

- Congressional outreach will be focused on support of legislative team activities in the areas of political strategy, coalition building, and promotion of DoD's legislative positions.
- OSD and Service interaction with OMB and the Administration will be provided outreach messages and materials to support consultations and negotiation.
- Similarly, administrative and regulatory discussions with other Federal agencies will require outreach assistance for briefings and negotiations.
- Outreach efforts focused on the States will assist in negotiations and education on the media statutes, as well as the development of model state legislation and programs.
- Outreach to Non-Governmental Organizations (NGOs), industry, the media, and the public will involve making information available, providing speakers or supporting conferences, hosting or attending meetings to discuss positions, establishing working partnerships and coalitions, and educating stakeholders on DoD's issues.
- A similar process must occur within the Department, to ensure that sustainable range messages are disseminated and acted upon.

The IPT will work to ensure that a consistent and well-coordinated outreach program is established to support all these areas.



## INTERNAL INITIATIVES

- DoD Range Sustainment Policy
  - Sustainable Ranges Capstone
  - Outreach; Noise; AICUZ; ARC
- Service Range Sustainment Programs
- Improved FY05 DPG
- Range Organizations
- Buffer Zones
- Reemphasis on Action Plans
- Range Inventory and Database
- Quantification and Readiness Reporting

Recommendation: USD(P&R) provide guidance for FY 05 -10 Sustainable Range Programs

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The Sustainable Ranges IPT is actively working on each of the internal initiatives on this chart. Many have been previously briefed to the SROC, while a few are more recent additions.

**Policy.** Directives on overall range sustainment, noise, outreach, Air Installation Compatible Use Zones (AICUZ), and Active Range Clearance (ARC) have been drafted and put out for coordination/approval.

**Service Range Sustainment Programs and DPG 05.** Each Service is implementing range sustainment-related programs as part of their POM, consistent with FY04 Defense Planning Guidance. Based on a strong desire by all four Services and OSD to develop and promulgate more comprehensive programming guidelines, The IPT is in the process of drafting a Range Sustainment guidance paper for FY05. *The USD(P&R) should issue guidance based on this IPT effort to guide Service FY05-10 Sustainable Range Programs.*

**Range Organizations.** Each service is working towards more effective and centralized range organizations. OSD IPT participants are also coordinating their efforts to provide a more effective range sustainment focus.

**Buffer Zones.** With the positive land provisions passed in this year's Authorization, DoD has additional tools to better buffer its range perimeters. A buffer zone strategy to take advantage of these tools is being worked.

**Action Plans.** The Encroachment Action Plans developed and briefed to the SROC in 2000 and 2001 are living documents, and implementation of these action plans is continuing. The IPT will continue to develop and add to these plans.

**Range Inventory and Database.** Each service is completing an inventory of its ranges and capabilities. A long-term IPT goal is the development of a range database capability that supports each service's unique needs but also provides a DoD-level tool to answer important range-related questions.

**Quantification and Readiness Reporting.** OSD continues to work with the Services to define improved quantification and reporting techniques that will clearly capture the risks and costs of encroachment. Each of the services are conducting promising analysis on this topic.





## SUMMARY OF RECOMMENDATIONS

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- Resubmit Six RRPI Legislative Proposals in 2003
- Pursue Ten Regulatory / Administrative Issues, Using DAS Team Approach
- Issue DoD Guidance on Exemption Process and ESA Compliance
- Continue OMB Engagement on Section 1041 Executive Order
- Work With States on Media Statutes and Model State Legislation and Programs
- Implement Targeted, Results Oriented Outreach Effort for 2003
- Provide USD(P&R) guidance for FY 05 -10 Sustainable Range Programs

These bullets recap proposed SROC recommendations to the Deputy Secretary presented throughout the course of this briefing.



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**BACKUP SLIDES**



## Legislative Proposal MBTA

Summary: Exempt military readiness activities from the Migratory Bird Treaty Act

Readiness Benefit:

- Allows testing and training to proceed
- Prevents regulatory creep
- Avoids new and expensive regulatory burden

Environmental Impact:

- DoD continues to study impacts of actions on migratory birds and to take protective actions, and . . .
- Remains active in partnerships / programs to protect migratory birds (Partners In Flight, etc.)

Considerations for 2003 Enactment:

- Congress passed a limited-duration version of an MBTA exemption in 2002. Political considerations and potential effects on other provisions in the DoD legislative package should be factored into any decision to resubmit this proposal in 2003

This backup chart provides additional explanation of the Migratory Bird Treaty Act (MBTA) clarification proposal recommended by the IPT as part of a 2003 legislative package.



## Legislative Proposal MMPA

Summary: Adjust marine mammal harassment definition to exclude insignificant behavioral changes

Readiness Benefit:

- Allows DoD to test and train more effectively at sea
- Facilitates faster deployment of new sensors and systems

Environmental Impact:

- Focuses research and regulation on biologically significant issues
- DoD's marine mammal research leadership continues
- Continues marine mammal protection initiatives

Considerations for 2003 Enactment:

- Recent DoD court setbacks in the SURTASS LFA case unquestionably makes MMPA clarification an irreducible minimum requirement for this Department. However, the introduction of new MMPA provisions could affect OMB's review timeline and introduce added uncertainty into other Federal Agency and Congressional acceptance of vetted DoD legislative provisions.

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This backup chart provides additional explanation of the Marine Mammal Protection Act (MMPA) clarification proposal recommended by the IPT as part of a 2003 legislative package.



## Legislative Proposal ESA – Critical Habitat

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Summary: Confirm that Integrated Natural Resource Management Plans can serve in place of Critical Habitat

Readiness Benefit:

- Avoids fragmenting and reducing test and training areas
- Allows more realistic training
- Avoids loss of capability of lands to support military missions

Environmental Impact:

- Allows holistic approach to natural resource management
- Continues to coordinate INRMP development with US Fish and Wildlife Service
- Fully complies with Endangered Species Act
  - Consultation on actions
  - Protects endangered species

Considerations for 2003 Enactment:

- Vigorous Opposition in 2002

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This backup chart provides additional explanation of the Endangered Species Act (ESA) – Critical Habitat clarification proposal recommended by the IPT as part of a 2003 legislative package.



## Legislative Proposal RCRA

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- Summary: Clarify that munitions deposited and remaining on operational ranges are not "solid wastes"
  
- Readiness Benefit:
  - Allows ranges to be used for normal and expected testing and training activities
  - Precludes use of the Resource Conservation Recovery Act (RCRA) to shut down operational ranges
  
- Environmental Impact:
  - Limited to operational ranges
  - DoD will continue to comply with RCRA for waste management activities
  - Consistent with EPA's military munitions rule
  
- Considerations for 2003 Enactment:
  - States will have significant interest in this proposal and must be mollified

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This backup chart provides additional explanation of the Resource Conservation and Recovery Act (RCRA) clarification proposal recommended by the IPT as part of a 2003 legislative package.



## Legislative Proposal CERCLA

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- Summary: Clarify that live-fire training is not subject to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
- Readiness Benefit:
  - Allows ranges to be used for normal and expected test and training activities
  - Precludes use of CERCLA to shut down operational ranges
- Environmental Impact:
  - CERCLA will continue to apply to closed ranges and off-range migration
  - Establishes orderly process for lifetime management of ranges
- Considerations for 2003 Enactment:
  - States will have significant interest in this proposal and must be mollified

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This backup chart provides additional explanation of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) clarification proposal recommended by the IPT as part of a 2003 legislative package.



## Legislative Proposal Clean Air Act - Conformity

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- Summary: Provide DoD a reasonable time period (5 years) to integrate its emissions with state emission limitations.
- Readiness Benefit:
  - Provides flexibility in decisions for fielding and basing weapons and aircraft
- Environmental Impact:
  - Delays but still mandates compliance, and only for military readiness activities
  - Note: military emissions are typically less than 0.5% of state emissions quotas
- Considerations for 2003 Enactment:
  - States will have significant interest in this proposal (conformity within a non-attainment area is a zero-sum game due to total emissions caps, so other emission-producing interests may oppose this change)

11 October 2002

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This backup chart provides additional explanation of the Clean Air Act (CAA) clarification proposal recommended by the IPT as part of a 2003 legislative package.