

a temporary need for minor deviations from the Operating Manual, although they are not considered emergencies. Deviations are sometimes necessary to carry out maintenance and inspection of facilities. Requests for deviations for unplanned circumstances generally involve time periods ranging from a few hours to a few days. Approval of these changes shall be obtained from the Division Engineer.

(7) Except as provided in this part, operating manuals generally shall follow the procedures for water control plans in § 222.5 of this chapter and applicable Corps of Engineers regulations for preparation of water control manuals and regulation schedules, including Engineer Regulation ER 1110-2-8156.

(b) *System Operating Manual.* (1) Not later than December 31, 2005, the Corps of Engineers and the South Florida Water Management District shall, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, develop a System Operating Manual that provides a system-wide operating plan for the operation of implemented projects of the Plan and other Central and Southern Florida Project features to ensure that the goals and purposes of the Plan are achieved.

(2) The System Operating Manual shall initially be based on the existing completed Central and Southern Florida Project features and shall be developed by the Corps of Engineers as provided in § 222.5(g) of this chapter and by the South Florida Water Management District as its laws and regulations require. Existing water control plans, regulation schedules, and Master Water Control Plans for the Central and Southern Florida Project shall remain in effect until approval of the System Operating Manual.

(3) The System Operating Manual shall be revised whenever the Corps of Engineers and the South Florida Water Management District, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, believe it is necessary to ensure that the goals and purposes of the Plan are achieved.

(4) Except as provided in this part, the System Operating Manual shall follow

the procedures for preparation of water control manuals, regulation schedules and Master Water Control Manuals in § 222.5 of this chapter and applicable Corps of Engineers regulations.

(5) The Corps of Engineers and the South Florida Water Management District shall provide notice and opportunity for public comment for any significant modification to the System Operating Manual.

(c) *Project Operating Manuals.* (1) The Corps of Engineers and the non-Federal sponsor shall, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, develop a Project Operating Manual for each project of the Plan that is implemented.

(2) Project Operating Manuals shall be considered supplements to the System Operating Manual, and present aspects of the projects not common to the system as a whole.

(3) Each Project Implementation Report shall, as appropriate, include a draft Project Operating Manual as an appendix to the Project Implementation Report.

(4) As appropriate, the draft Project Operating Manual shall be revised for the project construction phase and the operational monitoring and testing phase after completion of project construction.

(5) The final Project Operating Manual shall be completed as soon as practicable after completion of the operational testing and monitoring phase of the project. The completed project shall continue to be operated in accordance with the approved draft Project Operating Manual until the final Project Operating Manual is approved.

(6) The Corps of Engineers and the non-Federal sponsor shall provide notice and opportunity for public comment for any significant modification to the Project Operating Manual.

§ 385.29 Other project documents.

(a) As appropriate, the Corps of Engineers and the non-Federal sponsor may prepare design documents to provide additional design information needed for projects. Such documents shall be approved in accordance with applicable policies of the Corps of Engineers and the non-Federal sponsor.

(b) The Corps of Engineers and the non-Federal sponsor shall prepare plans and specifications necessary for construction of projects. Such

documents shall be approved in accordance with applicable policies of the Corps of Engineers and the non-Federal sponsor.

(c) The Corps of Engineers and the non-Federal sponsor may prepare other documents as appropriate during the real estate acquisition and construction phases for projects. Such documents shall be approved in accordance with applicable policies of the Corps of Engineers and the non-Federal sponsor.

Subpart D—Incorporating New Information into the Plan

§ 385.30 Master Implementation Sequencing Plan.

(a) Not later than December 13, 2004 the Corps of Engineers and the South Florida Water Management District shall, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, develop a Master Implementation Sequencing Plan that includes the sequencing and scheduling for implementation of all of the projects of the Plan, including pilot projects and operational elements, based on the best scientific, technical, funding, contracting, and other information available. The Corps of Engineers and the South Florida Water Management District shall also consult with the South Florida Ecosystem Restoration Task Force in preparing the Master Implementation Sequencing Plan.

(1) Projects shall be sequenced and scheduled to maximize the achievement of the goals and purposes of the Plan at the earliest possible time and in the most cost-effective way, consistent with the requirement that each project be justified on a next-added increment basis, including the achievement of the interim goals established pursuant to § 385.38 and the interim targets established pursuant § 385.39, consistent with § 385.36 and § 385.37(b), and to the extent practical given funding, engineering, and other constraints. The sequencing and scheduling of projects shall be based on considering factors, including, but not limited to:

- (i) Technical dependencies and constraints;
- (ii) Benefits to be provided by the project;
- (iii) Availability of lands required for the project; and
- (iv) Avoiding elimination or transfers of existing legal sources of water until

an alternate source of comparable quantity and quality is available, in accordance with § 385.36.

(2) The Master Implementation Sequencing Plan shall include appropriate discussion of the logic, constraints, and other parameters used in developing the sequencing and scheduling of projects.

(3) In accordance with § 385.18, the Corps of Engineers and the South Florida Water Management District shall provide opportunities for the public to review and comment on the Master Implementation Sequencing Plan.

(b) Whenever necessary to ensure that the goals and purposes of the Plan are achieved, but at least every five years, the Corps of Engineers and the South Florida Water Management District shall, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, review the Master Implementation Sequencing Plan.

(1) The Master Implementation Sequencing Plan may be revised as appropriate, consistent with the goals and purposes of the Plan, and consistent with § 385.36 and § 385.37(b), to incorporate new information including, but not limited to:

- (i) Updated schedules from Project Management Plans;
- (ii) Information obtained from pilot projects;
- (iii) Updated funding information;
- (iv) Approved revisions to the Plan;
- (v) Congressional or other authorization or direction;
- (vi) Information resulting from the adaptive management program, including new information on costs and benefits; or
- (vii) Information regarding progress towards achieving the interim goals established pursuant to § 385.38 and the interim targets established pursuant to § 385.39.

(2) Proposed revisions to the Master Implementation Sequencing Plan shall be analyzed by RECOVER for effects on achieving the goals and purposes of the Plan and the interim goals and targets.

(3) The revised Master Implementation Sequencing Plan shall include information about the reasons for the changes to the sequencing and scheduling of individual projects.

(4) In accordance with § 385.18, the Corps of Engineers and the South Florida Water Management District shall provide opportunities for the public to review and comment on revisions to the

Master Implementation Sequencing Plan.

§ 385.31 Adaptive management program.

(a) *General.* The Corps of Engineers and the South Florida Water Management District shall, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, establish an adaptive management program to assess responses of the South Florida ecosystem to implementation of the Plan; to determine whether or not these responses match expectations, including the achievement of the expected performance level of the Plan, the interim goals established pursuant to § 385.38, and the interim targets established pursuant to § 385.39; to determine if the Plan, system or project operations, or the sequence and schedule of projects should be modified to achieve the goals and purposes of the Plan, or to increase net benefits, or to improve cost effectiveness; and to seek continuous improvement of the Plan based upon new information resulting from changed or unforeseen circumstances, new scientific and technical information, new or updated modeling; information developed through the assessment principles contained in the Plan; and future authorized changes to the Plan integrated into the implementation of the Plan. Endorsement of the Plan as a restoration framework is not intended as an artificial constraint on innovation in its implementation.

(b) *Assessment activities.* (1) RECOVER shall develop an assessment program to assess responses of the system to implementation of the Plan. The Corps of Engineers and the South Florida Water Management District shall develop a guidance memorandum in accordance with § 385.5 for approval by the Secretary of the Army, with the concurrence of the Secretary of the Interior and the Governor, that describes the processes to be used to conduct these assessments.

(2) RECOVER shall develop a monitoring program that is designed to measure status and trends towards achieving the goals and purposes of the Plan throughout the South Florida ecosystem.

(3) RECOVER shall conduct monitoring activities and use the information collected and analyzed through the monitoring program as a

basis for conducting assessment tasks, which may include, but are not limited to, the following:

(i) Determining if measured responses are desirable and are achieving the interim goals and the interim targets or the expected performance level of the Plan;

(ii) Evaluating if corrective actions to improve performance or improve cost-effectiveness should be considered; and

(iii) Preparing reports on the monitoring program.

(4) Whenever it is deemed necessary, but at least every five years, RECOVER shall prepare a technical report that presents an assessment of whether the goals and purposes of the Plan are being achieved, including whether the interim goals and interim targets are being achieved or are likely to be achieved. The technical report shall be provided to the Corps of Engineers and the South Florida Water Management District for use in preparing the assessment report. The technical report prepared by RECOVER shall also be made available to the public.

(i) The Corps of Engineers and the South Florida Water Management District shall consult with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies in the development of the assessment report. The Corps of Engineers and the South Florida Water Management District shall also consult with the South Florida Ecosystem Restoration Task Force in developing the assessment report.

(ii) In accordance with § 385.22(b), the draft assessment report shall be externally peer reviewed.

(iii) In accordance with § 385.18, Corps of Engineers and the South Florida Water Management District shall provide opportunities for the public to review and comment on the draft assessment report.

(iv) The Corps of Engineers and the South Florida Water Management District shall transmit the final assessment report to the Secretary of the Army, the Secretary of the Interior, and the Governor.

(v) The Secretary of the Army shall make the final assessment report available to the public.

(c) *Periodic CERP updates.* Not later than June 14, 2004 and whenever necessary to ensure that the goals and purposes of the Plan are achieved, but not any less often than every five years, the Corps of Engineers and the South