

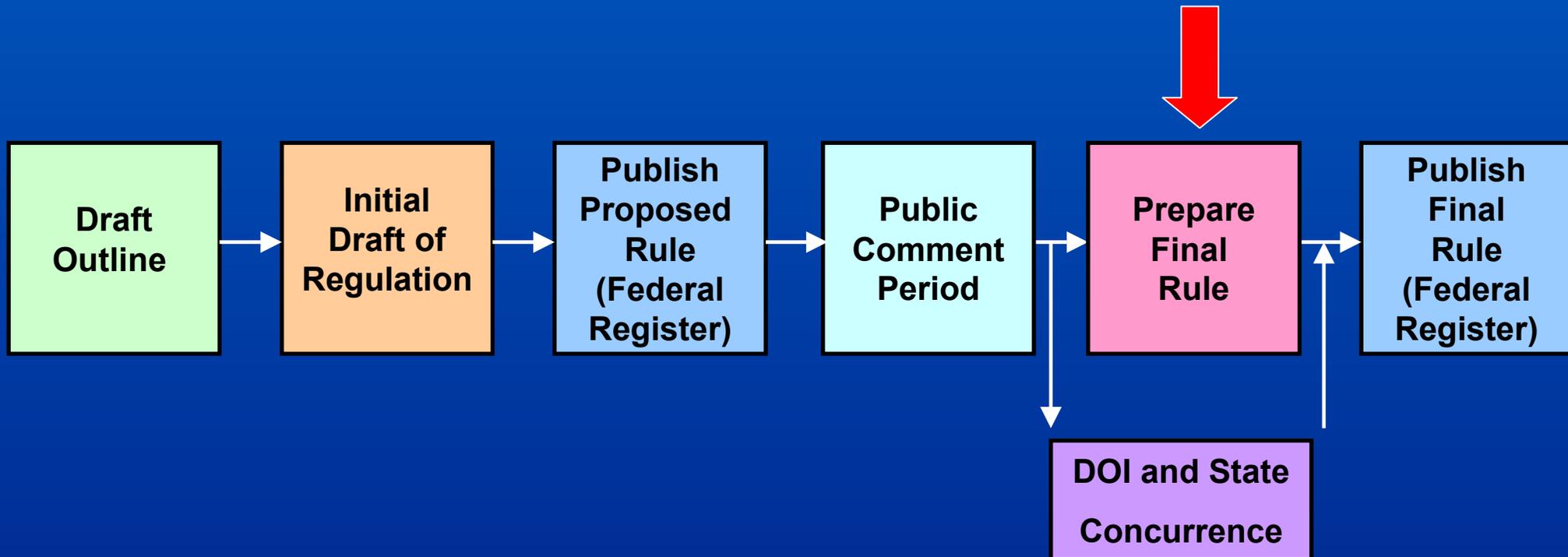
Programmatic Regulations

Working Group Meeting

November 5, 2002



Programmatic Regulations Development Process



Comments on Proposed Rule

- Public comment period closed on 1 October
- Approximately 820 comments received
 - Approximately 795 individual or form letters via mail, fax, and e-mail
 - Approximately 25 detailed comments received from members of Congress, organizations, Federal, State, and local agencies, and Miccosukee and Seminole Tribes
- All comments posted on web site

Form Letter Comments

- Does not give priority to restoration
- Does not provide for interim goals to be made part of regulations
- DOI should be given true concurring authority
- Definition of restoration should closely match original Everglades
- Independent scientific review is missing

Discussion of Detailed Comments

- Amount of Detail in Proposed Rule
 - Not detailed enough; omits key procedures
 - Should stick to process only
- Guidance Memoranda
 - Concurrence provisions will cause delays
 - Too much deferred to memoranda
 - Memoranda don't have same legal status as regulation
 - Concurrence not really concurrence
 - Completion dates not realistic

Discussion of Detailed Comments

(continued)

- Goals and Purposes of Plan
 - Regulation does not clearly make restoration paramount goal, with others secondary
 - Regulation should make clear balanced purposes of Plan
 - Regulation should not tie performance to April 1999 Plan
- Defining Restoration
 - Should be based on hydrologic and ecologic targets, not D-13R
 - Definition not scientifically credible
 - Should be defined in terms of hydroperiod and water quality only

Discussion of Detailed Comments

(continued)

- Amount of Water Provided for Restoration
 - Regulation should include 80-20 split for new water as a generalized planning goal
- Independent Scientific Review
 - Regulation should set date for establishing panel
 - Separate auditors from implementers
 - Regulation should specify how agencies will work with panel

Discussion of Detailed Comments

(continued)

- RECOVER
 - Responsibilities for RECOVER not clear
 - Limit and clarify that RECOVER not an independent body
 - DOI should have co-equal leadership role with Corps and SFWMD
 - RECOVER should comply with FACA requirements
- Reservations of Water for Natural System
 - Clarify reservation process and include target for amount of water to be reserved
 - Develop procedure for verification of reservation
 - Changes to reservations should be approved by Congress
 - PCA amendment provision limits State's discretion and ability to revise reservations

Discussion of Detailed Comments

(continued)

- Interim Goals
 - Should be made part of regulation
 - Extend date for RECOVER to complete recommendations
 - Three party agreement unnecessary and unwise
- Targets for Evaluating Progress on Other Water-Related Needs
 - Make process completely parallel to interim goals
 - How do we resolve conflicts between achieving interim goals and achieving targets

Discussion of Detailed Comments

(continued)

- Role of DOI
 - Should have co-equal role with Corps on programmatic items
 - Extending concurrence authority to DOI and State is counter to WRDA 2000
- Role of Task Force
 - Expand role
 - Include role in reviewing PIR alternatives
 - RECOVER should be advisory committee for Task Force

Discussion of Detailed Comments

(continued)

- Operating Manuals
 - Provisions for adjustments during the year allow virtually unconstrained deviations
 - Circumstances for allowing temporary deviations from Operating Manuals not specified
 - Drought contingency plan should be consistent with Seminole Tribe's water rights compact
- Master Implementation Sequencing Plan
 - Update sequencing based on Initial CERP Update
 - Sequencing should take savings clause provisions into account

Discussion of Detailed Comments

(continued)

- Adaptive Management Program
 - Revise definition
 - Include instructions to complete Initial CERP update
- Pre-CERP Baseline
 - Baseline should not require concurrence
 - Include all existing legal sources available
 - Include level of service for flood protection in baseline
- Shortfall in Water Made Available
 - Ensure equitable sharing of shortfall
 - Ensure natural system needs met

Discussion of Detailed Comments

(continued)

- Elimination or Transfer of Existing Legal Sources
 - Need definition of existing legal sources
 - Provisions should apply to all existing legal sources, not just permitted uses
 - Need new guidance memorandum for transfer or elimination process
- Flood Protection
 - Provisions interpreting WRDA 2000 are not clear
 - Savings clause provisions for flood protection should include natural system too
 - PDT *shall* (not may) consider new opportunities for flood protection

Discussion of Detailed Comments

(continued)

- NEPA Compliance
 - Too many categorical exclusions
 - EIS needed for guidance memoranda
 - EIS needed for regulation itself
- Outreach
 - Expand definition of public
 - Include SFERC as named organization for consultation
 - Need for effective outreach throughout implementation process, not just planning phase
 - Measurement tools needed to monitor effectiveness of programs

Discussion of Detailed Comments

(continued)

- Formulation and Evaluation of Alternatives
 - Alternatives should be formulated, evaluated, and justified on ability to provide system-wide benefits
 - Constraining plan formulation to stay within Yellow Book funding target not proper basis
 - Overly narrow definition of cost-effectiveness

Next Steps

- Prepare final programmatic regulations
- Obtain OMB clearance
- Obtain statements of concurrence/non-concurrence from Secretary of DOI and Governor
- Publish final regulations in Federal Register
- Programmatic regulations become effective 30 days after publication in Federal Register



Questions?