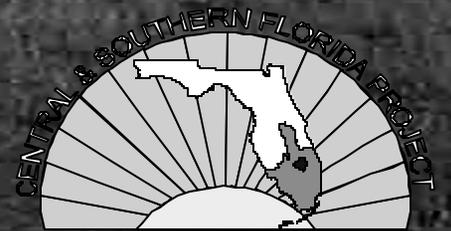


# **Programmatic Regulations Briefing**

**Working Group Meeting**

**July 24, 2001**



**COMPREHENSIVE EVERGLADES  
RESTORATION PLAN**

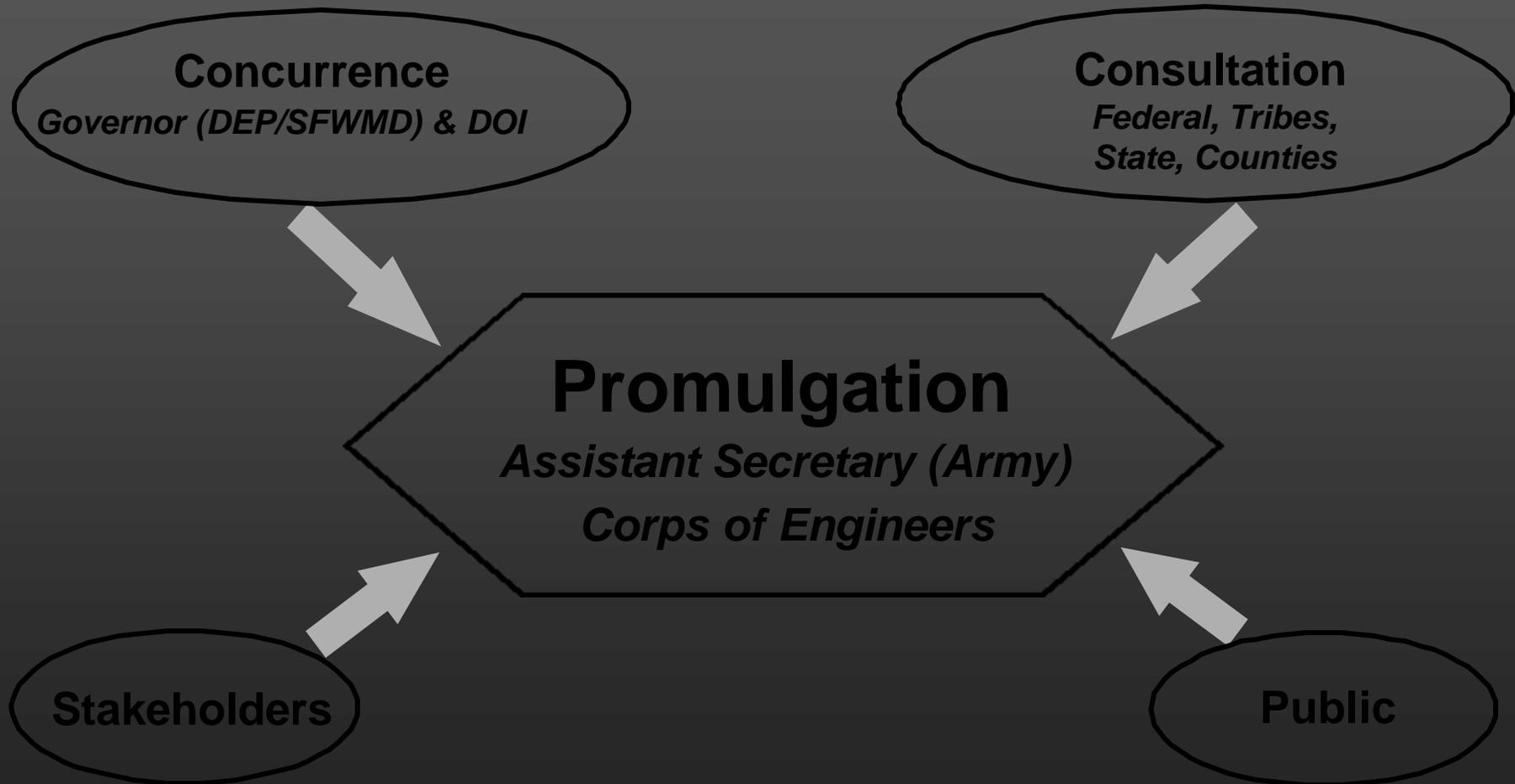
# Topics

- ✦ **Background on Programmatic Regulations**
- ✦ **Overview of Process**
- ✦ **Issues Raised at Meetings**
- ✦ **Initial Issues to be Resolved**

# **Assurance of Project Benefits Provisions**

- ✦ **Agreement between President and Governor**
- ✦ **Programmatic Regulations within 2 years to ensure goals and purposes of Plan are achieved**
- ✦ **Project Specific Assurances**
  - **Project Implementation Reports**
  - **Project Cooperation Agreements**
  - **Operating Manuals**
- ✦ **Savings Clause**
  - **Existing water users**
  - **Maintenance of flood protection**
  - **No effect on Tribal compact**

# Responsibilities for Development of Regulations



# Programmatic Regulations

Section 601(h)(3) requires:

- ✦ ...the Secretary of the Army promulgate programmatic regulations to ensure that the goals and purposes of the Comprehensive Plan are achieved.
- ✦ ...that these regulations be developed within two years of the date of enactment; after notice and opportunity for public comment; with the concurrence of the Governor and the Secretary of the Interior; and in consultation with the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and other Federal, State, and local agencies.

# Content of Regulations

## Establish a Process -

- + For development of project implementation reports, project cooperation agreements, and operating manuals that ensure that goals and objectives of the Plan are achieved
- + To ensure that new information from changed or unforeseen circumstances, new scientific or technical information or information developed through adaptive management, or future authorized changes to the Plan are integrated into the implementation of the Plan
- + To ensure the protection of the natural system consistent with the goals and purposes of the Plan, including the establishment of interim goals to provide a means to evaluate success of the Plan

# Development Process for Regulations

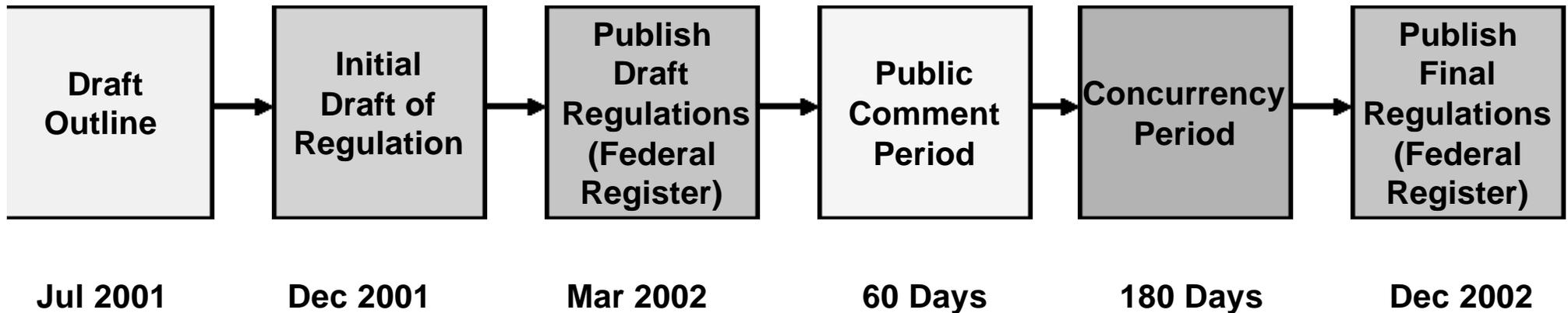
## ✦ Challenges

- Reconciling widely divergent views
- Complexity of Federal rule making

## ✦ Process should attempt to reach agreement among various agencies and stakeholders

- Interagency Meetings
- Stakeholder Meetings
- Public Meetings
- SFWMD Governing Board and WRAC Briefings
- Task Force and Working Group Briefings

# Programmatic Regulations Development Process



# **Protocols being Developed by RECOVER**

- ✦ **Adaptive Assessment**
- ✦ **Interim Goals Process**
- ✦ **Project Formulation and Evaluation Framework**
- ✦ **Comprehensive Plan Revisions**
- ✦ **Project Evaluations**
- ✦ **Annual System-Wide Operating Plan**
- ✦ **SFWMM Model Update**

# Current Status

- ✦ **Draft guiding principles developed (except for interim goals principle)**
- ✦ **First round of meetings with agencies and stakeholders completed**
- ✦ **Public workshop held June 28**
- ✦ **Programmatic Regulations web page operational**
- ✦ **Draft outline in preparation**
- ✦ **RECOVER Protocols under development**

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## *Rescuing an Endangered Ecosystem -*

### The Plan to Restore America's Everglades



- Implementation of the Plan**
  - Water Resources Development Act of 2000
  - Program & Project Management
    - Project Management Plans
    - Design Agreement
    - Implementation Schedule
  - Programmatic Regulations
  - Pilot Projects
  - Feasibility Studies
  - Construction
  - Project Implementation Reports
  - RECOVER
- Public Meetings**
- Team Meeting Calendar**
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The Plan - Table of Contents  
Why Restore The Everglades ?  
What Is The Restoration Plan ?  
What Does The Plan Give Us ?  
How Will The Plan be Implemented ?  
How Can I Get Involved ?  
How Do I Get A Copy Of The Plan?  
The Development Team  
Principle Features of the Plan  
en español

June 9, 2001

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## What Are Programmatic Regulations?

▶ Section 601(h) of the Water Resources Development Act of 2000 states that the overarching purpose of the Comprehensive Plan is the restoration, preservation, and protection of the south Florida ecosystem while providing for the other water-related needs of the region, including water supply and flood protection. This sub-section, entitled "*Assurances of Project Benefits*" directs that the Plan be implemented to achieve and maintain the benefits to the natural system and human environment described in the Plan. As part of these assurances, Section 601(h) requires that the Secretary of the Army promulgate programmatic regulations to ensure that the goals and purposes of the Comprehensive Plan are achieved. Section 601(h) requires that these programmatic regulations be developed within two years of the date of enactment; after notice and opportunity for public comment; with the concurrence of the Governor and the Secretary of the Interior; and in consultation with the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and other Federal, State, and local agencies.

- ▶ [Water Resources Development Act \(WRDA\) of 2000, Assurances](#)
- ▶ [Process for Developing Programmatic Regulations](#)
- ▶ [Guiding Principles, Draft, 15 May 2001](#)
- ▶ [Public Workshops](#)
- ▶ [Submit comments regarding Programmatic regulations](#)

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Page Last updated: July 18, 2001

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The Plan To Restore America's Everglades

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## Programmatic Regulations Comment Form

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Use the form below to provide comments on the Programmatic Regulations.

**First Name: \***  **Last Name: \***  \* denotes mandatory fields

**Street Address: \***

**City: \***  **State: \***  **Zip Code: \***  **Country**

**Email Address:**  **Telephone Number:** --

**Please type your comment here:**

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# **Key Issues at Agency Meetings**

- + Agreement between President and Governor**
- + Relationship of regulations to state MFL process**
- + Reservations of water versus actual water availability**
- + Interim Goals**
- + PIRs completed before programmatic regulations**
- + NEPA process for programmatic regulations**

# **Key Issues for Environmental Stakeholders**

- ✦ Timing of agreement between President and Governor**
- ✦ Expedite analysis of 245K water**
- ✦ Quantifying water for the natural system**
- ✦ CERP reservations process out of sync with state processes (MFLs, CUPs, etc.)**
- ✦ Independent scientific review**
- ✦ Measurable interim goals in regulation**
- ✦ Substance, not just process in the regulations**
- ✦ Regulations should confirm 80/20 new water split**

# Key Issues for Utility Stakeholders

- ✦ **Are goals of CERP multi-purpose**
- ✦ **Water from initial projects all goes to restoration**
- ✦ **Timing of CUPs, CERP, and MFLs**
- ✦ **Reservations versus actual availability of water**
- ✦ **Interim goals need to apply to other CERP purposes, not just restoration**
- ✦ **How will the consultation process with agencies work**
- ✦ **Concerns about impact of ASR bill on CERP implementation**

# **Key Issues for Agricultural Stakeholders**

- + Regulation should be process**
- + Timing of concurrence review of regulations**
- + Create one set of guidelines for Federal and state processes**
- + Program sequencing should reflect prioritization based on the most productive projects first**
- + Procedures needed for PIRs - analytical framework (project selection and scaling), cost effectiveness, and prioritizing projects**
- + RECOVER teams and performance measures focus almost exclusively on restoration, not other needs**
- + Difficult to set interim goals now**
- + Need procedures for fiscal accountability**

# **Initial Issues to be Resolved**

- + Amount of “substance” in regulations**
- + Interim goals**
- + Timing of concurrence requirements and revisions to draft regulation**
- + Coupling implementation of state water law and CERP**
- + Reservations versus actual availability of water**
- + Reservations process and timing**

# What's Next

- ✦ **Draft outline of regulation**
- ✦ **Second round of agency, stakeholder, and public meetings**
- ✦ **RECOVER protocol papers**



**Thank You**