

Programmatic Regulations

Working Group Meeting

May 23, 2001



WRDA 2000 Legislation

Section 601(h) states:



“The overarching objective of the 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.

The Plan shall be implemented.... to achieve and maintain the benefits to the natural system and human environment described in the Plan....”

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

Programmatic Regulations

Section 601(h) 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.

Concurrency Statement

- + **Concurrency statement needed from Governor and secretary of Interior on concurrence or non-concurrence**
- + **180 period concurrency period begins after end of public comment period on proposed regulations**
- + **Non-concurrency statement shall specifically detail reasons for the non-concurrence**
- + **Failure to provide statement will be deemed to meet requirements of concurrency**
- + **Statements shall be made part of public record and referenced in final regulation**

Limitations on Applicability of Programmatic Regulations

Regulations shall expressly prohibit requirement for concurrence by the Secretary of the Interior or the Governor on PIRs, PCAs, operating manuals, and any other documents relating to the development, implementation, and management of individual features of the Plan, unless such concurrence is provided in other Federal or State laws.

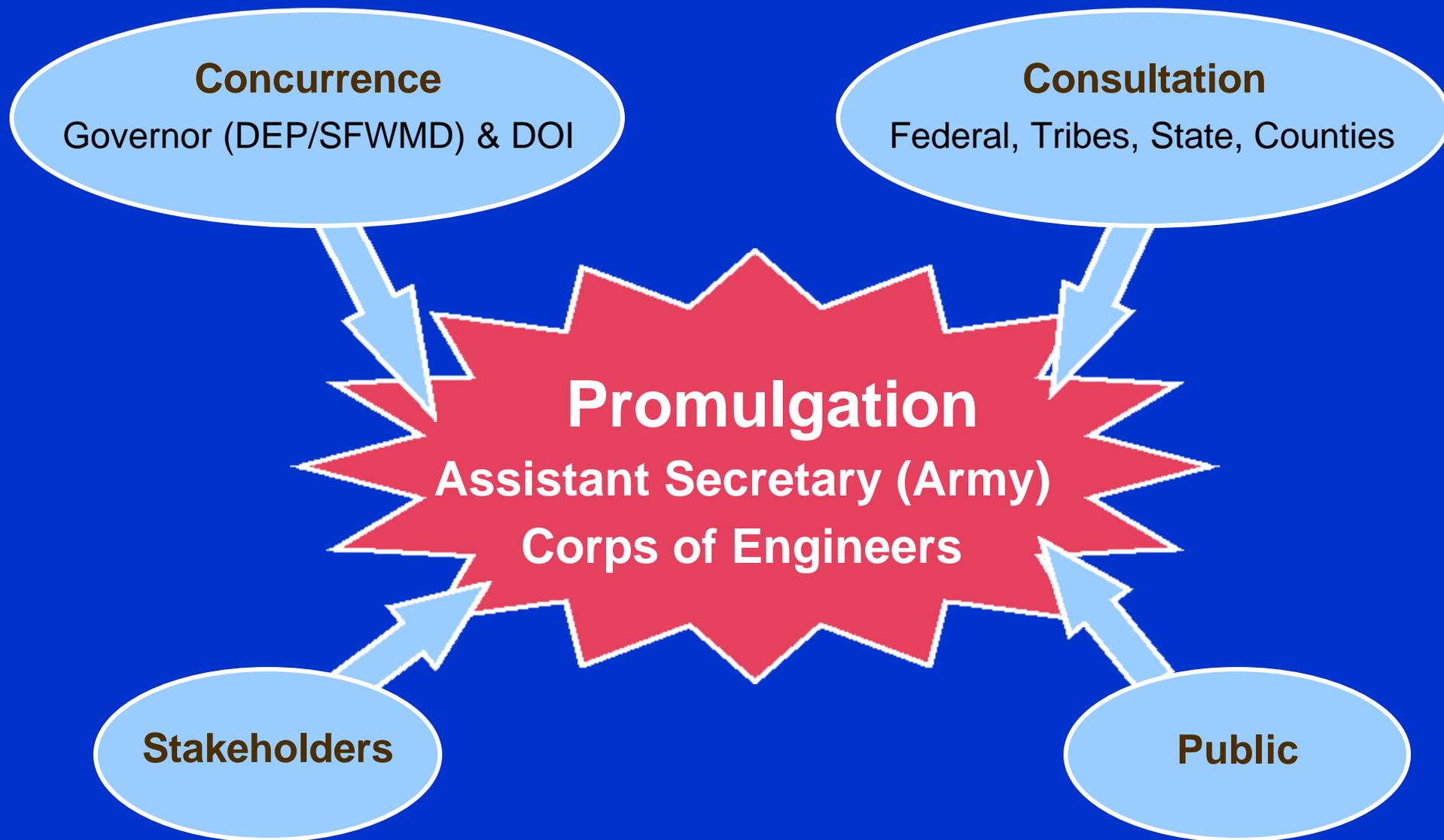
Schedule and Transition Rule

- + All PIRs approved before the date of promulgation of the programmatic regulations shall be consistent with the Plan
- + Preamble of regulations shall include a statement concerning the consistency with the programmatic regulations of any PIRs that were approved before the date of promulgation

Review of Programmatic Regulations

Whenever necessary to attain Plan goals and purposes, but not less often than every 5 years, the Secretary shall review the programmatic regulations

Programmatic Regulations Development Process



Content of Regulations

Establish a Process -

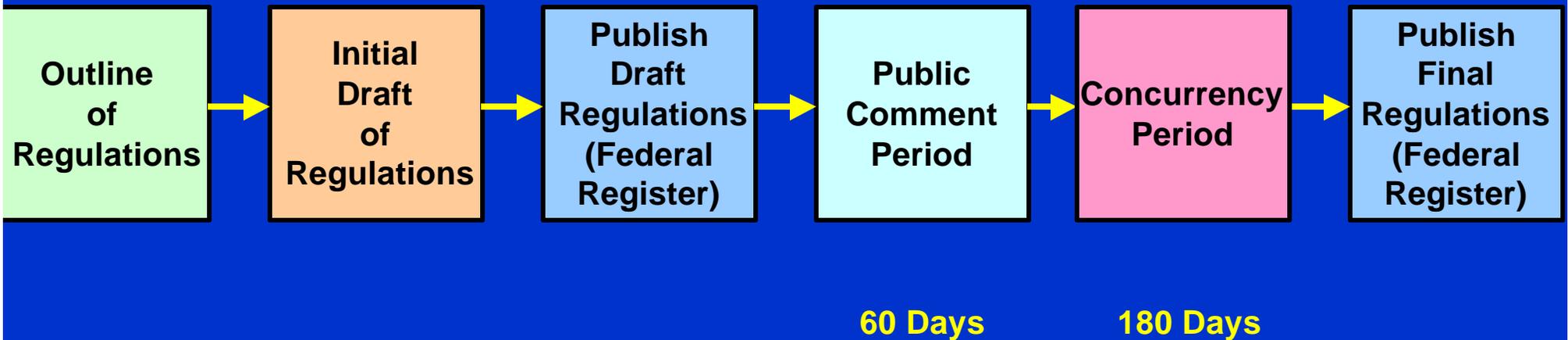
- + For development of Project Implementation Reports, project cooperation agreements, and operating manuals that ensure that goals and objectives of the Plan are achieved
- + To ensure that new information from changed or unforeseen circumstances, new scientific or technical information or information 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

General. Given the widely divergent views on the content of the programmatic regulations and the requirement for Federal rule making, a process is needed that attempts to achieve consensus among various agencies and stakeholders.

- + Interagency Team
- + Interagency Meetings
- + Stakeholder Meetings
- + Public Workshops
- + Briefings of South Florida Water Management District (SFWMD) Governing Board
- + Briefings of South Florida Ecosystem Restoration Task Force & Working Group

Programmatic Regulations Development Process



Process & Schedule

Initial Agency Meeting	17 May 01
Initial Briefing of Working Group	23 May 01
Initial Round of Meetings with Stakeholders	early - mid Jun 01
Initial Briefing of WRAC	7 Jun 01
Initial Public Workshops	late Jun 01
Briefing of SFWMD Governing Board	11 Jul 01
Develop Draft Outline of Programmatic Regulations	Jul 01
Second Round of Public Meetings with Agencies	Sep 01
Second Round of Meetings with Stakeholders	Sep 01
Finalize Outline of Programmatic Regulations	Oct. 01
Develop First Draft of Programmatic Regs.	Dec. 01
Third Round of Meetings with Agencies	Jan. 02

Process & Schedule

Third Round of Meetings with Stakeholders	Jan. 02
Finalize Draft Programmatic Regulations	1 Mar. 02
Publish Draft Regulations- Federal Register	15 Mar. 02
Public Meetings	Apr. 02
Finalize Programmatic Regulations	mid-Nov. 02
Publish Final Regulations - Federal Register	1 Dec. 02

Draft Guiding Principles

- + Regulations will be promulgated through an open and inclusive process
- + Regulations will be published no later than Dec. 02
- + Establish a process to ensure that goals and purposes of CERP are achieved
- + Establish a process for development of PIRs, PCAs, and operating manuals
- + Establish processes that ensure opportunities for participation by all

Draft Guiding Principles

- + Establish a process to ensure that development of PIRs, PCAs, and operating manuals are integrated and coordinated with specific state and SFWMD laws, regulations, and procedures
- + Establish a process for ensuring that new information is considered fully and integrated into CERP implementation
- + Not establish specific quantities of water to be achieved by CERP or its features
- + Establish a process for the periodic review of programmatic regulations
- + (Principle on interim goals to be developed)

Initial Agency Meeting Key Issues Raised

- + 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**

Discussion

- + The Process
- + Your Role
- + Content of Regulations
- + Key Issues

