

**DEPARTMENT OF DEFENSE****Department of the Army, Corps of Engineers****33 CFR Part 385****RIN 0710-AA49****Programmatic Regulations for the Comprehensive Everglades Restoration Plan****AGENCY:** Army Corps of Engineers, DOD.**ACTION:** Final rule.

**SUMMARY:** The Army promulgates this final rule to establish programmatic regulations for the Comprehensive Everglades Restoration Plan. Congress approved the Comprehensive Everglades Restoration Plan in section 601 of the Water Resources Development Act of 2000, which was enacted into law on December 11, 2000. The Act requires the Secretary of the Army to promulgate programmatic regulations to ensure that the goals and purposes of the Comprehensive Everglades Restoration Plan are achieved. We have developed this final rule in response to that statutory requirement. The rule establishes processes and procedures that will guide the Army Corps of Engineers in the implementation of the Comprehensive Everglades Restoration Plan.

Today's action completes a rulemaking that began on August 2, 2002 with the publication of proposed regulations. The final rule contains a number of revisions that respond to public comments on the proposed regulations.

**DATES:** This rule is effective December 12, 2003.

**FOR FURTHER INFORMATION CONTACT:** Stu Appelbaum, Corps of Engineers, Jacksonville District, at the above address by telephone (904) 232-1877, or by fax (904) 232-1434. You may also access the programmatic regulations Web page at: [http://www.evergladesplan.org/pm/progr\\_regs.cfm/](http://www.evergladesplan.org/pm/progr_regs.cfm/).

**SUPPLEMENTARY INFORMATION:****I. Background**

Section 601(h)(3) of the Water Resources Development Act of 2000, Public Law 106-541 (114 Stat. 2688) (hereinafter "WRDA 2000") requires the Secretary of the Army, after notice and opportunity for public comment, to promulgate regulations to ensure that the goals and purposes of the Comprehensive Everglades Restoration Plan (the Plan) are achieved. These final

regulations fulfill this requirement and establish the administrative structure for carrying out the Plan.

The programmatic regulations establish a process: for the development of Project Implementation Reports, Project Cooperation Agreements, and Operating Manuals that will ensure that the goals and the objectives of the Comprehensive Everglades Restoration Plan (CERP) are achieved; to ensure that new information resulting from changes or unforeseen circumstances, new scientific or technical information or information that is developed through the principles of adaptive management contained in the Plan, and future authorized changes to the Plan will be integrated into the implementation of the Plan; and, 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 by which the restoration success of the Plan will be evaluated throughout the implementation process.

The programmatic regulations recognize that the Everglades are a critical national resource in which the public has an important interest. Restoration of the Everglades involves many complicated issues involving ecosystem restoration, other water-related needs of the region, novel scientific and technical information and technology, and adaptive management. The final regulations envision a comprehensive process to involve the public, and the agencies that represent them, in important decisions involved in implementing the project.

In general, the programmatic regulations envision that the goals and purposes of the Plan will be achieved through the development of project-specific and system-wide measures. Project specific measures include but are not limited to Project Implementation Reports, Project Cooperation Agreements, Pilot Project Technical Data Reports, and Operating Manuals. The more generally applicable system-wide measures include, but are not limited to, the development of guidance memoranda, the Master Implementation Sequencing Plan, interim goals for evaluating the restoration success of the Plan, and interim targets for evaluating progress towards achieving other water-related needs of the region, including water supply and flood protection. The interim goals for evaluating the restoration success of the Plan and interim targets for other water-related needs are of special significance. They establish incremental targets to evaluate progress toward the expected level of

performance of the Plan and are used to monitor overall progress toward meeting the goals and purposes of the Plan.

Taken together, the project specific and system-wide measures form the foundation of the Plan and are critical to the successful restoration of the South Florida ecosystem.

The South Florida ecosystem is a nationally and internationally unique and important natural resource. It is also a resource in peril, having been severely affected by human activities for over a hundred years. The Central and Southern Florida Project extends from south of Orlando to the Florida Keys and is composed of a regional network of canals, levees, water storage areas, and water control structures. First authorized by Congress in 1948, the project serves multiple objectives. The objectives of the project include flood control, regional water supply for agricultural and urban areas, prevention of salt water intrusion, water supply to Everglades National Park, preservation of fish and wildlife, recreation, and navigation. While fulfilling these objectives, the project has had unintended adverse effects on the unique natural environment that constitutes the Everglades and South Florida ecosystem. In 1996, the Army Corps of Engineers was directed to develop a comprehensive plan to restore, preserve, and protect South Florida's natural ecosystem while providing for the water-related needs of the region, including flood control, the enhancement of water supplies, and other objectives of the Central and South Florida Project. The resulting plan, which was submitted to Congress on July 1, 1999, is called the Comprehensive Everglades Restoration Plan.

The overarching goal of the Plan is the restoration, preservation, and protection of the South Florida ecosystem while providing for other water-related needs of the region, such as flood protection and water supply. As submitted to Congress, the Plan contained 68 major components that anticipated the creation of approximately 217,000 acres of reservoirs and wetland-based water treatment areas, wastewater reuse plants, seepage management, and the removal of levees and canals in natural areas. These components vastly increase storage and water supply for the natural system, as well as for urban and agricultural needs, while continuing to fulfill the original objectives of the existing Central and Southern Florida Project. The Comprehensive Everglades Restoration Plan will restore more natural flows of water, including sheet flow; improve water quality; and