

establish more natural hydroperiods in the South Florida ecosystem. Improvements to fish and wildlife habitat, including those that benefit threatened and endangered species, are expected to occur as a result of the restoration of hydrologic conditions. This will promote the recovery of native flora and fauna, including threatened and endangered species.

In enacting section 601 of WRDA 2000, Congress approved the Comprehensive Everglades Restoration Plan as a framework for modifications to the Central and Southern Florida Project. Section 601 of WRDA 2000 contains a variety of provisions associated with implementation of the Comprehensive Everglades Restoration Plan, including an authorization for the construction of four pilot projects and ten initial projects of the Comprehensive Everglades Restoration Plan.

Section 601(h) of WRDA 2000 states, "the overarching objective of the Plan is the restoration, preservation, and protection of the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection." This section directs that the Plan be implemented to ensure the protection of water quality in, the reduction of the loss of fresh water from, and the improvement of the environment of the South Florida Ecosystem. Implementation of the Plan also seeks to achieve and maintain the benefits to the natural system and human environment described in the Plan.

Section 601(h)(2) of WRDA 2000 requires the President and Governor to enter into a binding agreement ensuring that the water generated by the Plan will be made available to the natural system. The President and Governor signed this agreement on January 9, 2002. The agreement specifies that the State will ensure by regulation, or other appropriate means, that water made available by each project in the Plan will not be permitted for a consumptive use or otherwise made unavailable by the State until such time as sufficient reservations of water for the restoration of the natural system are made under State law in accordance with the Project Implementation Report for that project and consistent with the Plan. This agreement also specifies that the State will monitor and assess the continuing effectiveness of reservations as long as the project is authorized in order to achieve the goals and objectives of the Plan.

Section 601(h)(3) of WRDA 2000 requires that the Secretary of the Army,

after notice and opportunity for public comment, and with the concurrence of the Governor of Florida and the Secretary of the Interior, and in consultation with the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and other Federal, State, and local agencies, issue programmatic regulations within two years of the date of enactment of WRDA 2000 to ensure that the goals and purposes of the Plan are achieved. This regulation is promulgated in furtherance of these statutory requirements.

Section 601(h)(4) of WRDA 2000 describes the project specific assurance requirements for Project Implementation Reports, Project Cooperation Agreements, and Operating Manuals. Finally, section 601(h)(5) contains a savings clause that provides protection for existing legal sources of water that will be eliminated or transferred due to project implementation and provides for maintenance of the levels of service for flood protection that were in existence on the date of enactment of WRDA 2000 and in accordance with applicable law.

II. Process for Developing the Programmatic Regulations

The Department of the Army developed the programmatic regulations through an open and inclusive process that involved numerous meetings, briefings, and discussions with other Federal, State, and local agencies; the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida; agricultural, environmental, urban utilities, recreational, and urban interest groups; and the public. Briefings on the programmatic regulations were provided to the Governing Board of the South Florida Water Management District and its Water Resources Advisory Commission and the South Florida Ecosystem Restoration Task Force and its Working Group. In addition, programmatic regulations web pages were developed and posted on the Comprehensive Everglades Restoration Plan web site (www.evergladesplan.org). The web site was used to disseminate information about the programmatic regulations and to provide a place for individuals and organizations to submit comments electronically during the development of the programmatic regulations. This was designed to identify the major concerns of the agencies and various groups, prior to publishing the proposed regulations and soliciting formal public comment.

The Army held an opening round of meetings with agencies, interest groups,

and the public in May and June 2001. The purpose of these meetings was to discuss the process that would be used to develop the programmatic regulations and to solicit comments on the major issues and concerns that should be addressed in developing the regulations.

Following this initial round of meetings, the Army developed a draft outline of the programmatic regulations. We then held a second round of meetings in September and October 2001 with agencies, interest groups, and the public to solicit comments on the outline. We also consulted with the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida, and sought their comments on the draft outline.

After the second round of meetings, we developed an initial draft of the programmatic regulations. We distributed this initial draft to the public on December 28, 2001, and allowed informal public comment until February 15, 2002. We then held meetings with agencies, tribes, and interest groups, to discuss the initial draft. We also received written comments on the initial draft that were posted on the programmatic regulations web site. In addition, the Water Resources Advisory Commission formed a subcommittee on the programmatic regulations. The subcommittee met several times to discuss issues concerning the initial draft and potential ways of addressing these issues. The South Florida Ecosystem Restoration Task Force also met several times after the release of the initial draft to discuss the programmatic regulations.

The proposed rule was published in the **Federal Register** on August 2, 2002 and the public was allowed to submit comments on the regulations until October 1, 2002. During the comment period, we held a public meeting in Miami on September 10, 2002 and a public meeting in West Palm Beach on September 19, 2002. We also consulted with the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida and held a number of informal meetings with interested groups. The comments submitted on the proposed rule and the transcripts of the two public meetings were posted on the programmatic regulations web site after the close of the public comment period.

On February 6, 2003, the Council for Environmental Quality hosted a public meeting in Washington. The purpose of the public meeting, which was facilitated by the Council on Environmental Quality, was to provide an opportunity for interested parties to clarify comments filed on the proposed rule. Representatives of the Department