

Task Force and set forth the intention of the agencies involved in implementing the Plan to regularly report to the Task Force as they do currently. We will continue to regularly report to the Task Force and its working group on Plan implementation matters and we expect that the Task Force will continue to provide valuable input regarding implementation of the Plan.

The South Florida Water Management District and the Jacksonville District already regularly report to the Task Force and its working group on CERP matters. We expect that informal coordination among the implementing agencies, the Task Force and its working group and its other advisory bodies will continue. For example, the Task Force may wish to have regular briefings on CERP implementation issues, on the Master Implementation Sequencing Plan, on Project Implementation Reports, or on Operating Manuals; or the Task Force may decide to have RECOVER provide the working group with information on work in progress. Further, we contemplate that the Task Force will determine, on a case-by-case basis, the manner and extent to which it is appropriate for it to be involved in CERP in order to carry out its existing statutory responsibilities.

The final regulations assure that the Task Force will be informed of certain matters of significance. They specifically state that the Task Force will be notified of and given an opportunity to review and provide comment on a variety of issues, including but not limited to, interim goals, Project Implementation Reports, Pilot Project Design Reports, Pilot Project Technical Data Reports, the pre-CERP baseline, assessment reports, guidance memoranda, Master Implementation Sequencing Plan, Comprehensive Plan Modification Reports, periodic CERP updates, and reports to Congress. Finally, the regulations require that the Task Force shall be provided with information on the alternatives developed and evaluated for the Project Implementation Reports before completion of the draft Project Implementation reports.

#### *M. Consultation*

There was general agreement among those commenting on the proposed regulations that it is important for the agencies implementing the Plan to consult with interested parties. The Corps of Engineers and non-Federal sponsors are responsible for implementation of the Plan. However, successfully implementing the Plan requires more than the involvement of

these parties, it also requires extensive involvement by Tribes, Federal, State and local agencies.

One commenter recommended that the Tribal consultation provisions in the proposed regulations be revised to specifically state that the consultation with Tribes should be conducted on a government-to-government basis. This commenter also felt that the Federal trust responsibility for Tribes should not be tied to one Executive Order alone.

Other commenters expressed concerns about the time that would be allowed for consultations. Several commenters expressed the view that the time allowed for consultation should reflect the complexity of the task or issue under review. Another commenter suggested that the Tribes, agencies, and public be informed of the closing dates for consultation.

The final regulations contemplate that the implementing agencies will consult fully and openly with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies as the Plan is implemented. These consultation provisions ensure that interested parties are appropriately involved in implementing, evaluating, and modifying the Plan when necessary. The final regulations specifically state that the consultation with the Tribes will be conducted on a government-to-government basis and in compliance with applicable laws, Executive Orders, and regulations.

The final regulations contemplate that the consultations on Plan related matters will facilitate a timely exchange of views among the parties. This will ensure that the consultation process is not used as a tool to delay or veto actions. The final regulations also envision that the Corps of Engineers and the non-Federal sponsor will set reasonable limits on the time for consultations and inform parties of those limits, after giving appropriate consideration to the significance of the proposed action, the degree to which relevant information is known or obtainable, the degree to which the action is controversial, the state of the art of analytical techniques, the number of persons affected, the consequences of delay, and other time limits imposed on the agency by law, regulations, or Executive Order.

#### *N. Operating Manuals*

The provisions in the proposed regulations on Operating Manuals were

of interest to a number of commenters. These manuals provide operational guidance that is intended to ensure that the goals and purposes of the Plan are achieved. Project operating manuals provide guidance on operational concerns relevant to individual projects. System Operating Manuals provide guidance on operational concerns related to projects in the aggregate to ensure that projects function in a coordinated, systematic way. Several commenters expressed concerns that the proposed regulations would allow unconstrained deviations from the approved Operating Manuals because of provisions in the regulations that allowed for adjustments during years when substantial deviations from expected rainfall and runoff occur, or when required for adaptive management reasons. These commenters also were concerned that the precise circumstances in which these temporary deviations would be allowed were not specified. Another commenter expressed the view that the final regulations should include a provision that would ensure any changes to Operating Manuals are consistent with the goals and purposes of the Plan. Finally, one commenter felt that the final regulations should include a provision stating that the drought contingency plans that are mentioned in the regulations discussing Operating Manuals should be consistent with the Seminole Tribe's water rights compact.

The final regulations retain the concept of developing Project Operating Manuals and System Operating Manuals. They contain new provisions that allow for public review and comment before they are finalized. The regulations also specify that the System Operating Manual will be developed by December 31, 2005. They contemplate that a Project Operating Manual will be developed for each project and that a draft Project Operating Manual will be included as an appendix in the Project Implementation Report. This will ensure that the operation of the project is linked to the expected benefits of the project recommended in the Project Implementation Report. The final regulations state that the final Project Operating Manual will be prepared as soon as possible after completion of the operational testing and monitoring phase of the project. Additionally, a provision has been added to the regulations that will require modifications to operating manuals to be consistent with the goals and purposes of the Plan. We have deleted the proposed provision of concern regarding yearly adjustments and have