

the Plan are achieved, but not any less often than every five years. The periodic CERP updates will be accomplished by the Corps of Engineers and the South Florida Water Management District, in consultation with Tribes, Federal, State, and local agencies, to conduct an evaluation of the Plan using new or updated modeling that includes the latest scientific, technical, and planning information. The periodic CERP updates will provide a basis for determining if management actions are necessary to seek improvements in the Plan based upon new information resulting from changed or unforeseen circumstances, new scientific and technical information, new or updated modeling; information developed through the assessment principles contained in the Plan; and future authorized changes to the Plan. The final regulations direct that as part of the periodic CERP update, the Corps of Engineers and the South Florida Water Management District will determine the total quantity of water that is expected to be generated by implementation of the Plan, including the quantity needed for the natural system and human environment.

The consultation provisions of the proposed regulations have been expanded to provide that the Corps of Engineers and the South Florida Water Management District also shall consult with the South Florida Restoration Task Force in conducting the evaluation of the Plan. The final regulations no longer provide for review of the assessment report by the independent science review panel. The independent science review panel will prepare its own report to Congress with its independent assessment of ecological indicators. It was deemed appropriate to keep these reports separate in order to provide for a truly comprehensive review of Plan performance and to ensure the independence of the science review panel by insulating it from any other aspect of Plan implementation or assessment beyond its statutory mission.

#### *Q. Comprehensive Plan Modification Reports*

We anticipate that the Plan will need to be revised periodically as part of the adaptive management program to reflect new information and to improve performance. The final regulations provide that a Comprehensive Plan Modification Report shall be prepared whenever significant revisions to the Plan are necessary to ensure that the goals and purposes of the Plan are achieved. The Comprehensive Plan Modification Report will be prepared using a process that parallels the process for developing a Project

Implementation Report. The final regulations provide that the final approved Comprehensive Plan Modification Report shall be transmitted to Congress. The final regulations also provide that the Comprehensive Plan Modification Report will include updated water budget information for the Plan, including the total quantity of water that is expected to be generated by implementation of the Plan, the quantity needed for the natural system in order to attain restoration goals, and the quantity generated for use in the human environment. In general, Plan modifications should be consistent with achieving the interim goals and targets. In some cases, the process of developing a Comprehensive Plan Modification Report (which includes consultation with Federal, State, and local agencies and public notice and comment) could identify necessary changes to the interim goals or targets. In this case, the goals or targets would be revised accordingly, as provided for in the final regulations.

We did not receive any comments on the proposed regulations provisions concerning Comprehensive Plan Modification Reports. We did make several changes in the proposed regulations to conform to the general comments made on other sections and to provide more detailed information related to these reports. For example, the final regulations state that the Comprehensive Plan Modification Report will be initiated at the discretion of the Corps of Engineers and South Florida Water Management District, in consultation with Federal, State, and local agencies and the Tribes. The regulations also set forth a series of general requirements related to the preparation of these reports.

#### *R. Pre-CERP Baseline*

The provisions in the proposed regulations concerning the pre-CERP baseline were of interest to a number of parties. Developing the pre-CERP baseline is an important step in ensuring that the goals and purposes of the Plan are fulfilled in accordance with WRDA 2000. This baseline is a tool for estimating hydrological conditions in the South Florida ecosystem on the date of enactment of WRDA 2000. It will be used to aid in the determination if existing legal sources of water will be eliminated or transferred as a result of project implementation and for determining the water made available by the Plan.

A number of commenters expressed concerns about the concurrence provisions for the pre-CERP baseline. These commenters pointed out that

WRDA 2000 only granted concurrence rights to the Secretary of the Interior and the Governor on the programmatic regulations. They believe that extending this concurrence process to the pre-CERP baseline was unnecessary and would cause delays in developing the baseline. Two commenters believed that the pre-CERP baseline should include all existing legal sources of water and also should include the levels of service for flood protection. One commenter observed that the requirement in the proposed rule that the pre-CERP baseline was to be consistent with the guidance memorandum for identifying the appropriate quantity, timing, and distribution of water to be dedicated and managed for the natural system might not be developed before the pre-CERP baseline is determined.

The final regulations provide guidance on developing the pre-CERP baseline. They envision that the pre-CERP baseline will include information on the quantity, timing, distribution, and quality of water in the South Florida ecosystem on the date of enactment of WRDA 2000. The regulations state that the pre-CERP baseline will be supported by appropriate documentation and will include a description of the assumptions on which it is based. Additional work performed by the Corps and the South Florida Water Management District with regard to the pre-CERP baseline indicates that the pre-CERP baseline does not need to be tied to the methodology for identification of water to be reserved for the natural system as these are two separate analyses. The final regulations require that the recommended project be compared to the pre-CERP baseline and other appropriate information to determine if an elimination or transfer of legal sources of water will be caused by implementation of the project. Therefore, the final regulations do not contain the provision from the proposed regulations that require the Corps of Engineers and South Florida Water Management District, when determining the pre-CERP baseline, to use a method consistent with the guidance memorandum that contains instructions for identifying the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system.

The final regulations provide that within six months of the effective date of the programmatic regulations, the Corps of Engineers and the South Florida Water Management District shall, in consultation with Tribes, Federal, State, and local agencies develop the pre-CERP baseline and