

Implementation Reports. This will include an analysis of how the project contributes to the goals and purposes of the Plan, including the interim goals and interim targets. The effect of sequencing on the achievement of interim goals and interim targets will be analyzed under NEPA through the Master Implementation Sequencing Plan. The effect of changes to CERP on the achievement of interim goals and interim targets will also be analyzed under NEPA through the Comprehensive Plan Modification Report. For this reason, we have listed interim goals and interim targets as categorically excluded from NEPA. This is consistent with the NEPA implementing regulations, which specify the NEPA analyses should be structured to avoid duplication and improper segmentation of Federal actions.

Some commenters felt that Project Cooperation Agreements, Project Management Plans and Program Management Plans should not be categorically excluded from NEPA. The Project Cooperation Agreement is a written agreement between the non-Federal sponsor and the Federal government setting forth the Federal and non-Federal responsibilities for implementing the project. The Project Cooperation Agreement does not select among project alternatives, it merely sets forth the parties' contractual understandings with regard to a project proposal that previously has been selected in the Project Implementation Report. For this reason, we continue to believe that it is appropriate to extend a categorical exclusion to Project Cooperation Agreements; however, the Corps of Engineers will not conclude a Project Cooperation Agreement for a project before the environmental consequences of that project have been considered fully in an appropriate NEPA document accompanying a Project Implementation Report. Project Management Plans and Program Management Plans are administrative documents setting schedules and assigning tasks between the local sponsor and the Federal government. Accordingly, those items continue to be listed as categorically excluded in the final rule.

W. Outreach

Several commenters suggested that the outreach provisions in the proposed regulations be revised. A number of commenters requested inclusion of their community-based group as a specific entity with which to consult. Several commenters believed that the proposal did not make clear the need for effective

outreach throughout the implementation process, not just during the planning phase. In addition, several commenters believed that specific measurement tools were needed to monitor the effectiveness of the outreach effort and the minority contracting provisions. One commenter suggested that the regulations ensure that information is provided to socially and economically disadvantaged individuals and communities about potential or anticipated contracting opportunities. One commenter suggested that the regulations specify that meetings with the public should be scheduled at times and locations that are convenient to the public.

In the final regulations, we have broadened the definition of public to include community-based organizations. The regulations clarify that the public outreach provisions apply throughout the entire process of implementing the plan. The regulations also add a provision that public meetings and workshops will be held at times and locations that facilitate participation by the public. The final regulations also contain a provision to provide additional information to socially and economically disadvantaged individuals and communities about potential contracting opportunities, noting that the means chosen must be consistent with the outreach provisions of CERP and with other applicable provisions of Federal law. The intent of this provision is to share information with the public in a way that is allowable and consistent with the Federal Acquisition Regulations, the Competition in Contracting Act, and other applicable provisions of law and regulations.

X. Formulation and Evaluation of Alternatives

The final regulations explain that the Project Implementation Report is a document that provides information on plan formulation and evaluation, engineering and design, estimated benefits and costs, environmental effects, and the additional information that is necessary for the Secretary of the Army to approve the project for implementation, or for Congress to authorize the project for implementation. Several commenters felt that changes should be made to the provisions in the proposed regulations concerning the formulation and evaluation of alternatives for Project Implementation Reports. Some commenters believe that alternatives should be formulated, evaluated, and justified on their ability to provide system-wide benefits. One commenter

felt that the language in the proposed regulations, which requires system formulation and evaluation to compare "total benefits and costs of the alternative under both the with-CERP and without-CERP condition," is vague. The same commenter stated that the proposed regulation's inclusion of the evaluation of a selected alternative as the last-added increment of the Plan was superfluous, because the proposed regulations already require proposed alternatives to be evaluated on the basis they contribute to the achievement of the goals and purposes of the Plan. One commenter believed that constraining plan formulation within the funding target for the project established by the April 1999 "Final Integrated Feasibility Report and Programmatic Environmental Impact Statement" was not appropriate and would inhibit full consideration of alternatives. Another commenter believed that the proposed regulations envisioned an overly narrow definition of cost effectiveness. Some comments cautioned that the formulation and evaluation of alternatives should not mimic traditional Corps of Engineers planning principles because in their view, traditional Corps of Engineers planning has focused on the quantification of benefits at customary civil works projects, rather than achieving the unique goal of restoring an entire ecosystem. There was general agreement that the formulation and evaluation of alternatives should not elevate the goal of fulfilling the other water-related needs of the region over the goal of fulfilling the ecological needs of the South Florida ecosystem simply because the benefits of fulfilling the other water-related needs are readily quantifiable and the benefits of fulfilling the ecological needs are not. This is consistent with section 601(h) of WRDA 2000 which states that 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; and with section 601(f)(2), which states that the Secretary of the Army may determine that an activity under CERP is justified by the environmental benefits to be derived by the South Florida ecosystem, with no further economic justification required, provided the activity is cost-effective.

The final regulations remove the provision that constrains plan formulation to stay within the funding target for the project established in the April 1999 "Final Integrated Feasibility Report and Programmatic