

(b) *Verification of water reservations.* The Project Cooperation Agreement shall include a finding that the South Florida Water Management District or the Florida Department of Environmental Protection has executed under State law the reservation or allocation of water for the natural system as identified in the Project Implementation Report. Prior to execution of the Project Cooperation Agreement, the District Engineer shall verify in writing that the South Florida Water Management District or the Florida Department of Environmental Protection has executed under State law the reservation or allocation of water for the natural system as identified in the Project Implementation Report. The District Engineer's verification shall provide the basis for the finding in the Project Cooperation Agreement and be made available to the public.

(c) *Changes to water reservations.* Reservations or allocations of water are a State responsibility. Any change to the reservation or allocation of water for the natural system made under State law shall require an amendment to the Project Cooperation Agreement.

(1) The District Engineer shall, in consultation with the South Florida Water Management District, the Florida Department of Environmental Protection, the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and other Federal, State, and local agencies, verify in writing that the revised reservation or allocation continues to provide for an appropriate quantity, timing, and distribution of water dedicated and managed for the natural system after considering any changed circumstances or new information since completion of the Project Implementation Report. In accordance with applicable State law, the non-Federal sponsor shall provide opportunities for the public to review and comment on any proposed changes in the water reservation made by the State.

(2) The Secretary of the Army shall notify the appropriate committees of Congress whenever a change to the reservation or allocation of water for the natural system executed under State law as described in the Project Implementation Report has been made. Such notification shall include the Secretary's and the State's reasons for determining that the revised reservation or allocation continues to provide for an appropriate quantity, timing, and distribution of water dedicated and managed for the natural system after

considering any changed circumstances or new information since completion of the Project Implementation Report. The Secretary of the Army's notification to the appropriate committees of Congress shall be made available to the public.

(d) *Savings clause provisions.* The Project Cooperation Agreement shall ensure that the Corps of Engineers and the non-Federal sponsor not:

(1) Eliminate or transfer existing legal sources of water until a new source of comparable quantity and quality as that available on the date of enactment of WRDA 2000 is available to replace the water to be lost as a result of implementation of the Plan; and

(2) Reduce levels of service for flood protection that are:

(i) In existence on the date of enactment of WRDA 2000; and

(ii) In accordance with applicable law.

§ 385.28 Operating Manuals.

(a) *General provisions.* (1) The Corps of Engineers and the non-Federal sponsor shall, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, develop Operating Manuals to ensure that the goals and purposes of the Plan are achieved.

(2) Operating Manuals shall consist of a System Operating Manual and Project Operating Manuals. In general, the System Operating Manual provides a system-wide operating plan for the operation of the projects of the Plan and other C&SF Project features and the Project Operating Manuals provide the details necessary for integrating the operation of the individual projects with the system operation described in the System Operating Manual.

(3) In accordance with § 385.18, the public shall have the opportunity to review and comment on draft Operating Manuals.

(4) The Division Engineer and the non-Federal sponsor shall approve completed Operating Manuals.

(5) The Corps of Engineers and the South Florida Water Management District shall develop a guidance memorandum in accordance with § 385.5 for approval by the Secretary of the Army, with the concurrence of the Secretary of the Interior and the Governor, that describes the content of Operating Manuals and the tasks necessary to develop Operating Manuals.

(6) Operating Manuals shall:

(i) Be consistent with the goals and purposes of the Plan;

(ii) Comply with NEPA, in accordance with § 385.14.

(iii) Describe regulation schedules, water control, and operating criteria for a project, group of projects, or the entire system;

(iv) Make provisions for the natural fluctuation of water made available in any given year and fluctuations necessary for the natural system as described in the Plan;

(v) Be consistent with applicable water quality standards and applicable water quality permitting requirements;

(vi) Be consistent with the reservation or allocation of water for the natural system and the savings clause provisions described in the Project Implementation Report and the Project Cooperation Agreement and the provisions of § 385.35(b), § 385.36, and § 385.37 and reflect the operational criteria used in the identification of the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system;

(vii) Include a drought contingency plan as required by § 222.5(i)(5) of this chapter and Engineer Regulation ER 1110-2-1941 "Drought Contingency Plans" that is consistent with the Water Rights Compact Among the Seminole Tribe of Florida, the State of Florida, and the South Florida Water Management District and Florida Administrative Code Section 40E-21 (Water Shortage Plan) and Florida Administrative Code Section 40E-22 (Regional Water Shortage Plan); and

(viii) Include provisions authorizing temporary short-term deviations from the Operating Manual for emergencies and unplanned circumstances, as described in applicable Corps of Engineers regulations, including § 222.5(f)(4) and § 222.5(i)(5) of this chapter, and Engineer Regulation ER 1110-2-8156 "Preparation of Water Control Manuals." However, deviations shall be minimized by including planning for flooding events caused by rainfall and hurricane events, as well as by including a drought contingency plan.

(A) *Emergency deviations.* Examples of some emergencies that can be expected to occur at a project are: drowning and other accidents, failure of the operation facilities, chemical spills, treatment plant failures and other temporary pollution problems. Water control actions necessary to abate the problem are taken immediately unless such action would create equal or worse conditions.

(B) *Unplanned circumstances.* There are unplanned circumstances that create