

also describe the relationship among the various entities responsible for implementation of the Plan.

(c) Section 601(h) of WRDA 2000 establishes an integrated framework for assuring that the goals and purposes of the Plan are achieved. This framework includes tools for planning, implementation, and evaluation; a process for developing these tools in an open public process, with input from other Federal, State, and local agencies; and an enforcement mechanism to ensure that the requirements of the statute are carried out.

(1) *Tools.* (i) The specific planning tool established by section 601(h) is the Project Implementation Report.

(ii) The specific implementation tools established by section 601(h) are Project Cooperation Agreements and Operating Manuals.

(iii) The specific evaluation tool established by section 601(h) is the interim goals for evaluating the restoration success of the Plan.

(iv) In addition to the specific planning, implementation, and evaluation tools established by section 601(h), the regulations of this part establish additional tools, including but not limited to, Project Management Plans, Program Management Plans, Comprehensive Plan Modification Reports, the Master Implementation Sequencing Plan, and interim targets for evaluating progress towards achieving the other water related needs of the region.

(2) *Processes.* The regulations of this part establish the processes for developing these tools. Consistent with section 601(h), these regulations have been developed, after notice and opportunity for public content, with the concurrence of the Secretary of the Interior and the Governor, and in consultation with the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Administrator of the Environmental Protection Agency, the Secretary of Commerce, the Florida Department of Environmental Protection, and other Federal, State, and local agencies.

(3) *Enforcement mechanism.* The specific enforcement mechanism established by Section 601(h) is the “Comprehensive Everglades Restoration Plan Assurance of Project Benefits

Agreement,” dated January 9, 2002, between the President and the Governor, under which the State shall ensure, by regulation or other appropriate means, that water made available by each project in the Plan shall 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 and consistent with the Plan.

(4) *Public information.* The Secretary of the Army shall ensure that the public understands the linkage between the processes, tools, and enforcement mechanism and can monitor the effectiveness of this integrated framework in assuring that the goals and purposes of the Plan are achieved, as provided for in the regulations of this part, by:

(i) Providing for public notice and comment in the development of planning, implementation, and evaluation tools;

(ii) Providing notice of final action on planning, evaluation, and implementation tools;

(iii) Making available to the public on a web site or by other appropriate means final, and where appropriate draft, copies of all planning, evaluation, and implementation tools; and

(iv) Explaining through the regulations of this part and by other appropriate means the process for developing the tools, the linkage between the process, tools, and enforcement mechanism, and the means by which these elements constitute an integrated framework for assuring that the goals and purposes of the Plan are achieved.

#### **§ 385.2 Applicability of the programmatic regulations.**

(a) This part applies to all activities conducted to implement the Comprehensive Everglades Restoration Plan.

(b) As used in this part, the Secretary of the Army acts through the Assistant Secretary of the Army for Civil Works with respect to the Army’s civil works program pursuant to 10 U.S.C. 3016.

(c) Nothing in this part shall be interpreted to amend, alter, diminish, or otherwise affect:

(1) The rights, powers and duties provided under the "Comprehensive Everglades Restoration Plan Assurance of Project Benefits Agreement," dated January 9, 2002 pursuant to section 601(h)(2) of WRDA 2000; or

(2) Any existing legal water rights of the United States, the State of Florida, the Miccosukee Tribe of Indians of Florida, or the Seminole Tribe of Florida, including rights under the compact among the Seminole Tribe of Florida, the State, and the South Florida Water Management District, defining the scope and use of water rights of the Seminole Tribe of Florida, as codified by section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e).

(d) This part is intended to aid the internal management of the implementing agencies and is not intended to create any right or benefit enforceable at law by a party against the implementing agencies or their officers. Nothing in this part shall create a right or expectation to benefits or enhancements, temporary or permanent, in third parties that are not specifically authorized by Congress in section 601 of WRDA 2000.

(e) Nothing in this part is intended to, or shall be interpreted to, reserve or allocate water or to prescribe the process for reserving or allocating water or for water management under Florida law. Nor is this part intended to, nor shall it be interpreted to, prescribe any process of Florida law.

### § 385.3 Definitions.

For the purposes of this part, the following terms are defined:

*Adaptive management* means the continuous process of seeking a better understanding of the natural system and human environment in the South Florida ecosystem, and seeking continuous refinements in and improvements to the Plan to respond to 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 in order to ensure that the goals and purposes of the Plan are fulfilled.

*Alternative plan* means a plan that consists of a system of structural and/or nonstructural measures, strategies, or programs formulated to achieve, fully or partially, the goals and purposes of the Plan, as further defined in section 1.6.1 of the Water Resources Council's "Economic and Environmental Guidelines for Water and Related Land Resources Implementation Studies," dated March 10, 1983.

*Assessment* means the process whereby the actual performance of implemented projects is measured and interpreted based on analyses of information obtained from research, monitoring, modeling, or other relevant sources.

*Central and Southern Florida (C&SF) Project* means the project for Central and Southern Florida authorized under the heading "CENTRAL AND SOUTHERN FLORIDA" in section 203 of the Flood Control Act of 1948 (62 Stat. 1176) and any modification authorized by any other provision of law, including section 601 of WRDA 2000.

*Component* means features of the Plan that include, but are not limited to, storage reservoirs, aquifer storage and recovery facilities, stormwater treatment areas, water reuse facilities, canals, levees, pumps, water control structures, and seepage management facilities; the removal of canals, levees, pumps, and water control structures; and operational changes.

*Comprehensive Everglades Restoration Plan (CERP)* means the plan contained in the "Final Integrated Feasibility Report and Programmatic Environmental Impact Statement," dated April 1, 1999, as modified by section 601 of WRDA 2000, and any subsequent modification authorized in law.

*Comprehensive Plan Modification Report* means the report prepared for approval by Congress of major changes to the Plan that are necessary to ensure that the goals and purposes of the Plan are achieved. The Comprehensive Plan Modification Report describes the formulation and evaluation of alternatives, recommended modifications to the Plan, and other economic, environmental, and engineering information,