

As part of the evaluation of the Plan, the Corps of Engineers and the South Florida Water Management District shall determine the total quantity of water that is expected to be generated by implementation of the Plan, including the quantity expected to be generated for the natural system to attain restoration goals as well as the quantity expected to be generated for use in the human environment. The Corps of Engineers and the South Florida Water Management District shall also consult with the South Florida Ecosystem Restoration Task Force in conducting the evaluation of the Plan. As appropriate, the results of the evaluation of the Plan may be used to initiate management actions in accordance with paragraph (d) of this section that are necessary to seek continuous improvement of 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 integrated into the implementation of the Plan. In addition, and as appropriate, the results of the evaluation of the Plan may be used to consider changes to the interim goals in accordance with § 385.38 and changes to the interim targets in accordance with § 385.39.

(d) *Management actions.* (1) In seeking continuous improvement of 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 integrated into the implementation of the Plan, the Corps of Engineers and the South Florida Water Management District and other non-Federal sponsors 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, use the assessment report prepared in accordance

with paragraph (b) of this section, information resulting from independent scientific review and external peer review in accordance with § 385.22, or other appropriate information including progress towards achievement of the interim goals established pursuant to § 385.38 and the interim targets established pursuant to § 385.39 to determine if the activities described in paragraph (d)(2) of this section should be undertaken to ensure that the goals and purposes of the Plan are achieved. The Corps of Engineers and the South Florida Water Management District 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, consider the following actions:

- (i) Modifying current operations of the Plan;
- (ii) Modifying the design or operational plan for a project of the Plan not yet implemented;
- (iii) Modifying the sequence or schedule for implementation of the Plan;
- (iv) Adding new components to the Plan or deleting components not yet implemented;
- (v) Removing or modifying a component of the Plan already in place; or
- (vi) A combination of these.

(2) Such actions should be implemented through revisions to Operating Manuals in accordance with § 385.28, revisions to the Master Implementation Sequencing Plan in accordance with § 385.30, a Comprehensive Plan Modification Report in accordance with § 385.32, or other appropriate mechanisms.

§ 385.32 Comprehensive Plan Modification Report

Whenever the Corps of Engineers and the South Florida Water Management District, 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

§ 385.32

33 CFR Ch. II (7-1-06 Edition)

other Federal, State, and local agencies, determine that changes to the Plan are necessary to ensure that the goals and purposes of the Plan are achieved or that they are achieved cost-effectively, or to ensure that each project of the Plan is justified on a next-added increment basis, the Corps of Engineers and the South Florida Water Management District 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, prepare a Comprehensive Plan Modification Report using a process that is consistent with the provisions of §385.10, §385.14, §385.18, and §385.19. The Corps of Engineers and the South Florida Water Management District shall also consult with the South Florida Ecosystem Restoration Task Force in preparing the Comprehensive Plan Modification Report.

(a) *General requirements.* The Comprehensive Plan Modification Report shall:

(1) Be initiated at the discretion of the Corps of Engineers and the South Florida Water Management District 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, after consideration of the assessment report prepared in accordance with §385.31(b), requests from the Department of the Interior or the State, or other appropriate information;

(2) Comply with all applicable Federal and State laws, including the National Environmental Policy Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, the National Historic Preservation Act, the Clean Water Act, the Safe Drinking Water Act, the Clean Air Act, the Coastal Zone Management Act, the Marine Mammal Protection Act, and any other applicable law;

(3) Contain information such as: Plan formulation and evaluation, engineering and design, estimated benefits and costs, and environmental effects,;

(4) Include appropriate analyses of alternatives evaluated by RECOVER;

(5) 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, and the quantity expected to be generated for the natural system to attain restoration goals as well as the quantity expected to be generated for use in the human environment;

(6) Contain appropriate NEPA documentation to supplement the Programmatic Environmental Impact Statement included in the "Final Integrated Feasibility Report and Programmatic Environmental Impact Statement," dated April 1, 1999; and

(7) Include coordination with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Florida Fish and Wildlife Coordination Commission, and other appropriate agencies in the preparation of the Comprehensive Plan Modification Report, as required by applicable law.

(b) *Review and approval of Comprehensive Plan Modification Report.* (1) The Corps of Engineers and the South Florida Water Management District shall provide opportunities for the public to review and comment on the draft Comprehensive Plan Modification Report and NEPA document, in accordance with §385.18 and applicable law and Corps of Engineers policy.

(2) The Comprehensive Plan Modification Report shall contain an appropriate letter of intent from the South Florida Water Management District indicating concurrence with the recommendations of the Comprehensive Plan Modification Report.

(3) Upon the completion of the Comprehensive Plan Modification Report and NEPA document, the District Engineer shall submit the report and NEPA document to the Division Engineer.

(4) Upon receipt and approval of the Comprehensive Plan Modification Report, the Division Engineer shall issue a public notice announcing completion

of the Comprehensive Plan Modification Report based upon:

(i) The Division Engineer's endorsement of the findings and recommendations of the District Engineer; and

(ii) The Division Engineer's assessment that the report has been prepared in accordance with current law and policy. The notice shall indicate that the report has been submitted to Corps of Engineers Headquarters for review.

(5) Headquarters, U.S. Army Corps of Engineers shall conduct a review in accordance with applicable policies and regulations of the Corps of Engineers. Headquarters, U.S. Army Corps of Engineers shall administer the 30-day state and agency review of the Comprehensive Plan Modification Report, and, as appropriate, file the Environmental Impact Statement with the Environmental Protection Agency.

(6) After completion of the policy review and other requirements of law and policy, the Chief of Engineers shall submit the Comprehensive Plan Modification Report and the Chief of Engineers' recommendations to the Assistant Secretary of the Army for Civil Works.

(7) The Assistant Secretary of the Army for Civil Works shall review the Comprehensive Plan Modification Report and shall, prior to submitting the Assistant Secretary's recommendations to Congress, coordinate the proposed recommendations with the Office of Management and Budget.

(c) *Minor changes to the Plan.* The Plan requires a process for adaptive management and incorporation of new information. As a result of this process, minor adjustments in the Plan may be made through Project Implementation Reports. It is not the intent of this section to require a continual cycle of report writing for minor changes. Instead, the intent of this section is to develop a Comprehensive Plan Modification Report for changes to the Plan that would require a supplement to the programmatic Environmental Impact Statement. The Corps of Engineers and the South Florida Water Management District may, in their discretion, elect to prepare a Comprehensive Plan Modification Report for other changes.

§ 385.33 Revisions to models and analytical tools.

(a) In carrying out their responsibilities for implementing the Plan, the Corps of Engineers, the South Florida Water Management District, and other non-Federal sponsors shall rely on the best available science including models and other analytical tools for conducting analyses for the planning, design, construction, operation, and assessment of projects. The selection of models and analytical tools shall be done in consultation 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.

(b) The Corps of Engineers, the South Florida Water Management District, and other non-Federal sponsors may, in consultation with the Department of the Interior, the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, the Environmental Protection Agency, the Department of Commerce, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, periodically revise models and analytical tools or develop new models and analytical tools as needed. As appropriate, RECOVER shall review the adequacy of system-wide simulation models and analytical tools used in the evaluation and assessment of projects, and shall propose improvements in system-wide models and analytical tools required for the evaluation and assessment tasks.

(c) The Corps of Engineers and the South Florida Water Management District shall determine on a case-by-case basis what documentation is appropriate for revisions to models and analytical tools, depending on the significance of the changes and their impacts to the Plan. Such changes may be treated as Minor Changes to the Plan, in accordance with § 385.32(c) where appropriate.