

**§ 385.33**

**33 CFR Ch. II (7-1-10 Edition)**

(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.

#### § 385.34 Changes to the Plan.

(a) The Plan shall be updated to incorporate approved changes to the Plan resulting from:

(1) Approval by the Secretary of the Army of a project to be implemented pursuant to §385.13;

(2) Authorization of projects by Congress;

(3) Comprehensive Plan Modification Reports approved by Congress; or

(4) Other changes authorized by Congress.

(b) The Corps of Engineers and the South Florida Water Management District shall annually prepare a document for dissemination to the public that describes:

(1) The components of the Plan, including any approved changes to the Plan;

(2) The estimated cost of the Plan, including any approved changes to the Plan;

(3) A water budget for the Plan; and

(4) The water that has been reserved or allocated for the natural system under State law for the Plan.

(c) The Corps of Engineers shall annually provide to the Office of Management and Budget an updated estimate of total cost of the Plan, the costs of individual project components, and an explanation of any changes in these estimates from the initial estimates contained in the "Final Integrated Feasibility Report and Programmatic Environmental Impact Statement," dated April 1, 1999.

#### Subpart E—Ensuring Protection of the Natural System and Water Availability Consistent With the Goals and Purpose of the Plan

##### § 385.35 Achievement of the benefits of the Plan.

(a) *Pre-CERP baseline water availability and quality.* (1) Not later than June 14, 2004 the Corps of Engineers and the South Florida Water Management District shall, 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, develop for approval by the Secretary of the Army, the pre-CERP baseline to be used to aid the Corps of Engineers and the South Florida Water Management District in determining if existing legal sources of water will be eliminated or transferred as a result of project implementation as described in §385.36 and memorialize the pre-CERP baseline in an appropriate document. The Corps of Engineers and the South Florida Water Management District shall consult with the South Florida Ecosystem Restoration Task Force in the development of the pre-CERP baseline.