

RE: Agency comments to CERP
Programmatic Regulations, initial
draft release

The Office of Environmental Services of the Florida Fish and Wildlife Conservation Commission (FWC), in consultation with our South Regional director's office, has reviewed the initial draft of the Programmatic Regulations that are required under the Water Resources Development Act 2000, for implementation of the Comprehensive Everglades Restoration Plan. Our comments follow.

Comments

1. Section 385.3 does not define "Restoration" nor does it reference documents from which a definition may be cited.

The definition for "Protocol" is not specific as to the types of rule-making that are eligible for exclusion as protocols. Our agency is concerned that some types of rule-making processes may circumvent formal coordination by the federal and local sponsors with other agencies.

2. Section 385.8 Development and Adoption of Protocols, line 37 should be changed from "*may develop...*" to "shall develop..."

3. Section 385.9 Review of Programmatic Regulations: The failure to submit letters of non/concurrence should not be acceptable. Therefore we do not feel that such failures should be construed as tacit concurrence.

Though our agency agrees in principle with the concept that the Programmatic Regulations are a framework upon which procedures and protocols can be built, we feel that this document should dictate a specific period of public review in every instance where applicable. Because the programmatic regulations will serve the public as well as the Corps as a guide to the restoration process, this document is the best place to inform the public of their rights to have input to the process. We do not believe that public input periods should be variable nor the timing be left to the discretion of the federal and local sponsors.

4. Section 385.15 Consultation and Coordination: The execution and success of these efforts have been highly variable with respect to restoration projects in South Florida. In not every case have the appropriate agencies been invited to participate in these activities in a timely fashion, nor been informed when these activities have been delayed in response to issue resolution processes. It is our view that though consultations are informal, the initiation of consultations should be a matter of record, by written invitation, and the interacting agencies should identify appropriate points of contact.

Respectfully,

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Biological Administrator II

Everglades Protection and Restoration Program