

**APPENDIX B**  
**FIELD IMPLEMENTATION: CASE STUDY METHODS AND ANALYSIS**

This appendix presents the details of the case study approach and analysis utilized to review and evaluate district implementation of nationwide permit procedures in terms of program objectives and requirements.

**B.1 Introduction**

The basic study elements were:

1. Identify procedures and analyses used to develop regional general conditions for the nationwide permits and for developing letters of permission and regional general permits.
2. Evaluate district use of current nationwide permits procedures (e.g., use of special conditions, discretionary authority and denials) and the extent to which they achieve program objectives.
3. Examine impact and mitigation data entry (database).

The study approach:

1. Interview district supervisors, project managers and other experts as relevant (e.g., staff archaeologist and database manager).
2. Interview staff from the local/regional office of the following agencies as appropriate: U.S. Environmental Protection Agency (U.S. EPA); U.S. Fish and Wildlife Service (U.S. FWS), National Marine Fisheries Service (NMFS), and State Historic Preservation Office (SHPO).
3. Examine Corps permit data and records to (a) supplement understanding of district processes, (b) compare impact and mitigation data entry (database) versus permit records.
4. Gather supplemental information (e.g., watershed cumulative impact studies, studies of compensatory mitigation effectiveness) to assist examination of district practices.

Eight Corps Districts (in six Corps Divisions and sixteen States) were selected to represent geographic (one district was selected from most Corps Divisions) and ecological diversity (coastal, inland). The sample included at least one district each with substantial experience with state programmatic general permits or Section 404 letters of permission and endangered species and tribal issues. Otherwise districts were selected that had substantial nationwide permit activity in Fiscal Year (FY) 1998. Collectively the eight districts issued almost 1/3 of the nation's total nationwide permits in FY 1998. The eight districts are identified in Table B.1-1.

**Table B.1-1 Case study districts**

<b>District (Division)</b>	<b>District attributes</b>
New England (North Atlantic Division)	State programmatic general permits in all states
Norfolk (North Atlantic Division)	Substantial activity with nationwide permit activity in wetlands, Section 404 letters of permission, and regional general permit
Jacksonville (South Atlantic Division)	Substantial nationwide permit activity in wetlands, very substantial 404 letters of permission activity
St. Paul (Mississippi Valley Division)	Very substantial nationwide permit activity (including nationwide permit 26) in wetlands, recently implemented letters of permission, programmatic general permits
Fort Worth (Southwestern Division)	Substantial nationwide permit activity and letters of permission experience
Portland (Northwestern Division)	Northwest region--endangered species (salmon) and tribal issues, state watershed planning approach
Omaha (Northwestern Division)	Greatest district nationwide permit activity
Sacramento (South Pacific Division)	Substantial nationwide permit activity

**B.2 Examination of Corps permit data and records**

The Institute for Water Resources (IWR) sampled permits issued in FY 1998 because this was the most complete data available at the study start. Selection of only the most recent year minimized analysis problems owed to changing (expanding) requirements for permit record keeping practices. For example, the Corps Headquarters asked the field to collect new information regarding nationwide permits in May 1997 (in FY 1998).

Section 404 and Section 10 (or combined Section 404/10) nationwide permits were randomly sampled. IWR randomly sampled single and stacked nationwide permits for six districts. Between 1% and 10% of nationwide permits were sampled with a goal of reviewing at least 50 issued permit actions per district. The sample averaged about 65 per district. One district, Omaha, was not able to provide many permit files from field offices at the time of the IWR field visit; the district provided 4 to 5 per state office for review. IWR examined 67 New England District permits (Category 1 and 2 type activities in all six states in the district that are similar to nationwide permit activities). Table B.2.-1 shows the sample sizes for each district.

IWR also examined several permits per district that were identified (mostly by district) as having endangered species or cultural resources issues. In some cases, the State Historic Preservation Officer and the regional U.S. FWS office identified permits in which they were involved. IWR examined 71 permits total involving endangered species or cultural resources protection issues.

**Table B.2-1 Permit records reviewed, FY 1998**

	NWP	Sampled and Reviewed	Permits involving Endangered Species Issues Reviewed	Permits involving Cultural Resources Issues Reviewed	Others	Totals
Fort Worth	290	56	3	5	-	59
Jacksonville	1,938	61	3	2	-	66
New England	*					
Norfolk	1,526	67	4	3	-	74
Portland	526	61	13	-	-	74
Omaha	3,120	22	5	-	-	27
Sacramento	589	69	6	3	-	76
Saint Paul	3,984	68	30	1	10	109
Totals	11,973	404	64	14	10	485**

\* New England has developed state programmatic general permits. IWR reviewed 67 district permits similar to nationwide permit activities.

\*\* Does not add up in all districts because some files identified as having endangered species and/or cultural resources concerns also were selected in the random sampling.

### B.3 Field Implementation

This section presents details of field implementation practices to achieve the following objectives: procedures ensuring minimal adverse effects, protection of endangered species, protection of cultural and historical resources, and consistency with state 401 water quality certifications and coastal zone management consistency determinations.

#### B.3.1 Field Practices

**Table B.3.1-1. Procedures Ensuring Minimal Adverse Effects: Field Implementation**

District	Regional Conditions
Portland	Yes (e.g. all nationwide permits (essential salmonid habitat, water quality limited streams, time of year restrictions, Riparian vegetation), nationwide permits 3, 4, 6, 7, 11, 12, 13, 14, 18, 19 all have special regional conditions for water quality certification and coastal zone management consistency to be approved.
Sacramento	Yes – pre-construction notifications for certain nationwide permits in significant waters/areas, additional conditions for others (effectively revoking them).
Omaha	Wyoming and Nebraska only. Nebraska – nationwide permits 26, 29, and 40 revoked in Rainwater Basin, Category I Eastern Saline Wetlands. For nationwide permits 26 and 23, condition only allows stream channelization under certain circumstances. Wyoming – All nationwide permits require revegetation after land clearing, no activity within 100 feet of natural spring areas; nationwide permits 7 and 12 – no draining effects; nationwide permit 27 – pre-construction notification to Corps for all activities; additional water quality conditions; notification to U.S. FWS in certain areas for nationwide permits 3, 6, 23, 25, 26, 36, and 40.
St. Paul	Yes – 1991 conditions continued for 1996 (no effort put into 1996 nationwide permits because district was developing letters of permission to replace the nationwide permits).
Fort Worth	None
Jacksonville	Yes – pre-construction notifications and special conditions for certain nationwide permits in critical areas (e.g. Everglades) and to protect endangered species (e.g., manatee).
Norfolk	Yes – 1991 conditions restrict activities in designated trout waters, stockpiling material in wetlands, and designated critical habitat.
New England	No nationwide permits.

**Table B.3.1-2. Procedures Ensuring Minimal Adverse Effects -Cumulative Impact Assessment: Field Implementation**

	<b>Cumulative Impact Assessment (CIA) Approach</b>	<b>Cumulative Impact Studies and other Environmental Information</b>
Portland	Project managers organized by county: (1) knowledge about resources and effects of proposed activities, (2) knowledge of permit history for area. Project managers search (1) RAMS by river mile to identify previous permits in area, (2) search extensive district aerial photo collection. District has not done CIA for one specific issue.	Numerous local wetland inventory and assessments completed (58 as of December 22, 1999) and others underway by Oregon Division of State Lands were used as basis for state notification process and form foundation for city wetland planning goals, (e.g., West Eugene Advanced Identification (ADID) and Wetland Conservation Plan produced abbreviated permit process). Most applications reviewed for impacts to endangered fisheries: Oregon Division of Fish and Wildlife provides maps and guidance on fishery resources.
Sacramento	Case-by-case basis using staff experience in geographic area to determine when cumulative impacts may be becoming more than minimal, but no method to do CIA. Some project managers use topographic maps or electronic quadrangle sheet to monitor permit activity and can search RAMS based on location.	Two California natural resources databases: endangered species and "important natural habitats". Several Special Area Management Plans (SAMPs) and Habitat Conservation Plans in Utah: Logan SAMP resulted in general permit; SAMPs underway in nearby Box Elder and West Valley City. Three SAMPs started but not completed in northern California (Mt. Shasta City, Bridgeport, City of Chico). One SAMP produced wetland maps with information used for desktop jurisdictional determinations or pre-application discussions; another SAMP produced maps of permits and wetland preserves. California Habitat Conservation Plans in San Joaquin Valley produced maps and Habitat Conservation Management Plans. Two SAMPs underway in Colorado ski areas. U.S. FWS report on CIA of nationwide permit 26 in 1992 (acres permitted and mitigated with U.S. FWS tracking losses of fairy shrimp habitat in California).
Omaha	All state offices have ArcView-RAMS. Nebraska: Platte River cumulative impact study on bank stabilization and structures. Montana: Project managers use existing Corps study documents, inventories, county information (stream inventories), and state fishery biologist. However, most wetlands not on National Wetland Inventory maps. North Dakota: Project managers use Natural Resources Conservation Service (NRCS) and U.S. EPA information (includes site inspection reports, photos, wetlands information, field notes and soil information. Project managers have information from cumulative impact assessment (linear feet bank stabilization data) on Garrison reach of Missouri River. However, cumulative impact assessment on bank stabilization on Missouri river was inconclusive. South Dakota: Not much. Wyoming: Cumulative impacts not specifically addressed for nationwide permits but project managers sum all individual permit impacts. Nationwide permit 12 cumulative impact assessment difficult because delineation of individual impacts associated with each crossing not required.	Nebraska: Platte River cumulative impact study on bank stabilization and structures (rip rap less than 15% channel width to prevent encroachment). One SAMP (Lancaster County) and one ADID effort, (Rainwater Basin). Montana: SAMP, CIA and Environmental Impact Statement (EIS) being conducted on the Upper Yellowstone River in response to concerns related to bank stabilization. North Dakota: Cumulative impact assessment on Garrison reach of Missouri River to understand long term maintenance and production of river system and sand bar formation. Mitigation may be required for some linear projects in an effort to protect migratory bird habitat in the central flyway. South Dakota: James River Planning Study. Wyoming: Jackson Hole Riparian Restoration study; Teton County ADID not completed, but developed local zoning and wetland buffers. Colorado. City of Boulder ADID completed but no abbreviated permit process. Colorado Natural Heritage Program database (geographic information system (GIS)) has ecosystem and threatened and endangered species information. CIA of nationwide permits on South Platte River watershed in Omaha District area of

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	<b>Cumulative Impact Assessment (CIA) Approach</b>	<b>Cumulative Impact Studies and other Environmental Information</b>
	Colorado: District study (1999) of nationwide permit 26: allowed 40 to 60 acres of wetland impact in South Platte watershed which led to district policy requirement for mitigation if impacts greater than 1/3 acre.	Colorado. Resulted in mitigation requirements for nationwide permit pre-construction notifications, specifically for nationwide permit 26.
St. Paul	No quantitative CIA on watershed basis. Qualitative assessments on case-by-case basis. Project managers look at regional issues on case-by-case basis. Try to minimize down stream impacts, use storm water management to protect water quality. Work with local zoning departments.	2 regional studies resulted in abbreviated permit process – Pleasant Prairie in resulted in one general permit and Superior, Wisconsin SAMP resulted in five general permits. Corps preparing Red River EIS as result of several proposals to impound river. Data not incorporated into database other project managers may use. Wisconsin Department of Transportation prepares annual reports showing acres permitted and compensatory mitigation on district/watershed basis. Minnesota Board of Water and Soil Resources prepares reports showing permit and compensatory mitigation by region.
Fort Worth	Project managers have maps showing location of proposed activity and prior permits. Also have topographic map, soil survey information, and National Wetlands Inventory map. This information provided by clerical assistants. RAMS linked to GIS for location, streams, and topography.	EIS and Record of Decision for Trinity River.
Jacksonville	Until recently, no formal assessment methods. A few limited sub-basin-scale analysis conducted for a few permit applications, e.g., new road projects outside urban boundary. However, GIS recently installed and now available to all project managers at workstations in field offices. GIS originated in South Florida Comprehensive Conservation, Permitting and Mitigation Strategy and was developed by Florida Department of Environmental Protection (FDEP) with FDEP and U.S. EPA funding. GIS information will include endangered species and cultural resource information, land use information (in some counties), wetland maps, soil maps (of those that have been digitized), seagrass beds, state and Corps permits, other existing data. GIS performs calculations e.g., total acres permitted by watershed. This will assist project managers with CIA and alternative analyses. Corps preparing workbook and guidance on classes of applications project managers will use to prepare “resource at risk reports” for proposed activities. Planning study information also made available to project managers in Regulatory Division.	Many watershed and regional studies and information available. One SAMP, seven ADIDs and several other studies. Dade County SAMP completed in early 1990s resulted in general permit and mitigation bank. Only two ADIDs completed in relatively light permit demand areas. ADIDs completed in St. Johns County; Broward County; Northeast Shark River Slough; West Biscayne Bay; The Florida Keys; Rookery Bay; Loxahatchee Slough. Florida Keys ADID not completed but one work product has been used to streamline process, Three EISs will streamline permitting. Completed EIS is Everglades Construction Project involving construction of water quality treatment marshes for runoff from approximately 1,400 square miles of largely agricultural lands and changes in canals and water distribution that discharge this water into the approximately 3,500 square miles of marsh. Two watershed EISs to satisfy both NEPA requirements for permit decision making and to learn lessons that can be applied to other watershed initiatives. Lakebelt EIS: mining activities in 50 square miles (including 15,000 acres of wetlands) for 50 years. EIS prepared and public notice issued. Twelve standard permits valid for 50 years with periodic review/renewal. Mitigation plan prepared using a functional assessment (Wetland Rapid Assessment Procedure). Southwest Florida EIS covers 1500 square miles. Draft EIS in revision; intent is general permit for area of less concern. Regulatory Division also participating in cross-cutting

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	<b>Cumulative Impact Assessment (CIA) Approach</b>	<b>Cumulative Impact Studies and other Environmental Information</b>
		<p>Corps-interagency study effort--the South Florida Comprehensive Conservation, Permitting and Mitigation Strategy. This effort set up a regional GIS expanded statewide. Two other watershed or regional EISs underway: Santa Rosa County and Southwest Florida. Other studies:            Florida Keys Carrying Capacity Study – Initiated in response to requested road widening project to ensure people can be evacuated. Most nationwide permits cannot be used in the Keys. Functional assessment completed by ADID.            Seagrass/dock study; manatee study            U.S. EPA watershed study in St. Johns to address nationwide permit 26 cumulative effects associated with subdivisions and to enable better planning. Corps EIS in Lower St. Johns, Southwest Florida (Big Cypress), U.S. EPA did ADID.</p>
Norfolk	No real CIA case-by-case	ADID for Chincoteague Island (not completed); City of Virginia Beach has local plan.
New England	<p>Massachusetts: Department of Environmental Protection provides listing of projects from its database. Project managers use site visits, experience with the area and discussion with agencies to get sense of cumulative impacts. For programmatic general permit renewal district used RAMS and state data and conducted inspections on 5% of programmatic general permits.            Maine, Rhode Island and New Hampshire: Experience with activities and resources in state.            Rhode Island: Most CIA is done for programmatic general permit renewal.</p>	Canaan Valley Institute - CIA
Overall	<p>Staff experience (knowledge of permit history and resources) in affected areas serve as informal CIA. Support to decision: may search RAMS to identify previous permits in area; often have access to air photos, other agency information; clerical staff provides information (map of prior permits, proposed location, topographic, soil survey and National Wetland Inventory maps)</p> <p>One field office nationwide permit 26 study resulted in mitigation policy (greater than 1/3 acre of impacts).</p> <p>RAMS may be linked to GIS (e.g., Fort Worth and Jacksonville districts); Jacksonville District system (performs watershed impact calculations) now installed.</p>	<p>Most districts have completed or started several regional studies (e.g., ADIDs, SAMPs, EISs) some of which have been used as basis for development of general permits, but these cover only a small portion of any district. Typically these studies include wetland assessments, if not permit history. Many regional studies (especially South Florida and Everglades studies) in Florida have contributed to development of state-wide GIS that will facilitate consideration of cumulative effects in permit decisions. Along Missouri River in North Dakota, CIA study of bank stabilization informs Corps permit decisions.</p>

**Table B.3.1-3 Procedures Ensuring Minimal Adverse—Mitigation:  
Field Implementation**

	<b>Mitigation (primarily Compensatory Mitigation, but including avoidance and minimization as available)</b>	<b>Permit Compliance (primarily compensatory mitigation)</b>
Portland	District uses Oregon Division of State Lands Compensatory Mitigation Requirements (includes monitoring). State rules are for both minor (less than 1/2 acre and non-minor projects. Mitigation often not required for nationwide permits because they are considered minor. In past, many activities that did not require pre-construction notification were reported and mitigation provided up front in the application but not always entered in RAMS (not required as a permit condition). Several commercial mitigation banks have been implemented. Some compensatory mitigation provided by in-lieu fee funding program directed by Oregon Division of State Lands; these typically for very minor impacts not required to report by Federal requirements alone. According to U.S. EPA, Portland District is working on development of mitigation guidance.	Compliance in accordance with state mitigation and monitoring guidelines. State does compliance in some areas where no field office.
Sacramento	<p>District-wide detailed guidance (including monitoring) (for nationwide permits and individual permits) available on website sent with nationwide permit verification letter (Habitat Mitigation and Monitoring Proposal Guidelines). Guidelines states detailed mitigation and monitoring plan should generally be submitted with verification request and that financial assurances may be required. Guidelines includes guidelines appendix for vernal pools. Utah uses revised district guidance including mitigation design criteria.</p> <p>Several commercial mitigation banks in Sacramento and Salt Lake City areas. California: minimization during pre-construction notification process. Colorado: 90% of projects redesigned to avoid or minimize (recommends adding field to RAMS for “pre-application request”) Nevada: 50% minimization during pre-application. Utah: 90% of projects re-designed to avoid or minimize. Large impact decrease during pre-application process, but little or no change during pre-construction notification review. Impact decreases during review, since more opportunity to get applicant to reduce impacts.</p>	<p>“Cradle-to-grave” approach for permit processing and follow-up used by all four state offices. California has catalog (Sept 1998) of existing compensatory mitigation sites (a sample) located in Sacramento and Placer Counties, including project descriptions and location maps. Staff estimate less than 10% compliance certifications signed and returned. U.S. FWS mitigation compliance study in Sacramento District (1995), but examined sites shortly after construction. Colorado and Utah: track monitoring report due dates using RAMS. Colorado calls permittee to request report. Utah sends out form letters to permittees when reports due. On-site verification of monitoring reports and if failure of all or part of a site occurs, then new mitigation work is required. If no reply or monitoring report is received, they may suspend or revoke the permit and schedule a compliance meeting. Utah Division of Wildlife Mitigation Success Study (Starinchak 2000). Findings for 35 permits including 26 nationwide permit 26 verifications issued from 1988 to 1997 in northern Utah where mitigation required: almost all had special condition (mitigation plan most typical), but majority not in full compliance (e.g., no plan or photo provided); of sites inspected 85% wetland present; vegetation matched plant lists; often disturbed (e.g. litter, grazing); and lack of documentation in files. In Summit County, Colorado, U.S. EPA did aerial photo study of wetland impacts. Nevada: Staff estimate 10-20% signed and returned compliance certifications.</p>
Omaha	<p>Draft Wetland Compensatory Mitigation and Monitoring Plan Guidelines for Omaha District providing outline of plan components. Colorado: Since FY 1999 mitigation is generally required for all wetland impacts greater than 1/3 of an acre (nationwide permit pre-construction</p>	<p>Colorado: One project manager is responsible for enforcement and compliance. 80-85% of nationwide permits submitted do not require an application.. Compliance inspections are conducted on 25% of the nationwide permits that require pre-construction notification and require mitigation. 100% on individual</p>

**Table B.3.1-3 Procedures Ensuring Minimal Adverse—Mitigation:  
Field Implementation**

	<b>Mitigation (primarily Compensatory Mitigation, but including avoidance and minimization as available)</b>	<b>Permit Compliance (primarily compensatory mitigation)</b>
	<p>notifications that include delineation in South Platte River watershed (as per Corps cumulative impact study)). Mitigation greater than 1:1 ratio not allowed because of water needs in state. Several commercial and single-client mitigation banks recently developed.</p> <p>Nebraska: Department of Environmental Quality has mitigation ratios; typical ratio is 1.5:1. Anti-degradation policy in Section 401 of the Clean Water Act allows states to require mitigation for all impacts greater than 1/10 of an acre at 1.5:1 ratio. Corps has mitigation ratios for eastern saline wetlands. Applicants rarely offer mitigation up front in unless a larger project. For nationwide permit 26 or other tubing (i.e., piping) impacts, Corps may require 30-foot buffer/replanting grasses and deep drop structures to reduce downstream erosion. Department of Transportation mitigates for all impacts at 1:1 ratio; Department of Transportation mitigation bank has 12 to 15 sites.</p> <p>Montana: No written mitigation policy or guidelines. General informal policy is that all impacts greater than 1/3 acre for nationwide permit 26 and all individual permits will be required. Montana Department of Transportation mitigates for all impacts regardless of size.</p> <p>North Dakota: Mitigation may be required for impacts associated with linear projects to protect migratory bird habitat. Mitigation not always by acre, but may focus on functional replacement, i.e., hydrogeomorphic method used for assessing impact and mitigation.</p> <p>South Dakota. Typically mitigation is required for impacts over 1/3 acre. Mitigation on an acre or on functional basis.</p> <p>Wyoming: Generally mitigation plans are typically required for impacts greater than 1/3 acre. Monitoring required for most mitigation. Field office has mitigation design guidelines, but no generic ratios. District conducted site review of some mitigation projects in eastern part state in 1998/99.</p>	<p>permits.</p> <p>Nebraska: Very little enforcement and compliance is done due to workload and staffing issues. Monitoring reports sometimes required for project specific mitigation. Success of mitigation is unknown.</p> <p>Montana: Monitoring is required. Projects involving mitigation, or bank stabilization and individual permits are the most likely to have compliance inspections. District might use TEA-21 funding to improve mitigation monitoring and compliance activities. (Additional full time equivalent position funded to work solely on Department of Transportation projects).</p> <p>North Dakota: District has standard operating procedure for compliance at Corps Lakes which is handled by park rangers. Project managers handle projects “cradle to grave”. NRCS is the lead on agricultural lands. U.S. FWS compliance study of Section 404 permits (1994) mostly focused on non-mitigation components.</p> <p>South Dakota: Project managers handle projects cradle to grave. In the past “stay in school” students did compliance.</p> <p>Wyoming: Project managers handle projects cradle to grave. Annual review of all mitigation projects with U.S. EPA. U.S. EPA agrees with this statement.</p>
St. Paul	<p>Compensatory mitigation guidelines for Minnesota office (and Wisconsin Department of Natural Resources), Corps, and others are drafting mitigation guidelines). Corps rarely requires stream impact mitigation in Minnesota.</p> <p>Minnesota Wetland Conservation Act requires compensatory mitigation and establishes ratios. Mitigation amount function of impact size and acres of resource remaining in area. State has most extensive mitigation banking program in nation; Corps prepared mitigation banking siting</p>	<p>Compliance inspections required by project manager performance standards, but not on nationwide permits. Project managers conduct “cradle to grave” permit review, enforcement and compliance. Previously separate enforcement section; change may result in fewer compliance inspections.</p> <p>Individual permits and larger sites monitored for 5 years (standard in Minnesota). Monitoring in Wisconsin is project specific, less than one acre requires no monitoring. Project managers required to conduct compliance inspections on 10% of individual permit</p>

**Table B.3.1-3 Procedures Ensuring Minimal Adverse—Mitigation:  
Field Implementation**

	<b>Mitigation (primarily Compensatory Mitigation, but including avoidance and minimization as available)</b>	<b>Permit Compliance (primarily compensatory mitigation)</b>
	<p>standard operating procedure (1999). Wisconsin Department of Natural Resources does not recognize mitigation in their permit evaluation. Corps participates on interagency team to develop compensatory mitigation ratios in state. General guidance and ratios and on-site versus off-site, in-kind versus out-of-kind mitigation is provided to applicants. In many cases applicant proposes mitigation up-front and project managers consider adequacy of proposed mitigation.</p> <p>Wisconsin Department of Transportation has extensive mitigation banking program and several commercial mitigation banks.</p> <p>Wisconsin and Minnesota: If mitigation offered in application, Corps authorizes project as proposed including mitigation but does not require mitigation as separate special condition (75% of proposed projects offer mitigation and authorized as such). For impacts greater than 1/3 acre, Corps requires mitigation. Nationwide permits with special conditions are not signed by applicant indicating that conditions accepted by applicant. However, if applicant averse to special conditions requiring mitigation Corps offers applicant opportunity to review proposed project as individual permit.</p> <p>Projects often minimal when submitted due to state rules on top of nationwide permit terms and conditions. For example, projects in Wisconsin may receive expedited review if meet 10,000 square foot limit imposed by Department of Natural Resources and, in Minnesota, projects meet states Wetland Conservation Act requirements including mitigation. Wisconsin Department of Transportation does a good job on avoidance and minimization so when they come in they have met Department of Natural Resources scrutiny so Corps Section 404 permit program benefits from the joint process.</p> <p>Corps developing avoidance and minimization tracking in RAMS—will include reasons, type or water or wetland, compensation details (method, in-kind/out-of-kind, on-site/off-site, and mitigation bank). U.S. EPA view: Section 401 water quality standards for wetlands result in up to 30% of proposed activities never authorized.</p> <p>Wisconsin Department of Natural Resources staff suggest 1/2 potential applicants decide not to apply after discussion</p> <p>Minnesota Board of Water and Soil Resources tracks impacts and mitigation yearly (but does not include mining activities regulated by Department</p>	<p>authorizations.</p> <p>Minnesota Board of Water and Soil Resources reviewed mitigation and banking success in 1998, with Corps participation. Examined quality of mitigation, but generally related to construction method, i.e., highest quality mitigation on restoration versus creation through excavation. The study also found generally that project-specific mitigation and banked mitigation were created and restored wetlands, respectively. Other findings: lack of monitoring at both banks and project-specific mitigation, and mitigation sites almost entirely dictated by landowners rather than ecological or hydrologic needs.</p> <p>Wisconsin Department of Natural Resources: compared their data to Corps data, prior to RAMS and identified many differences: field study showed permit conditions often not met. Staff suggest that one-half of potential applicants decide not to apply after discussion. State currently developing rule to allow staff to consider compensatory mitigation in decisions.</p>

**Table B.3.1-3 Procedures Ensuring Minimal Adverse—Mitigation:  
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	<b>Mitigation (primarily Compensatory Mitigation, but including avoidance and minimization as available)</b>	<b>Permit Compliance (primarily compensatory mitigation)</b>
	<p>of Natural Resources; 1998 impacts--state reported 288 acres, Corps reported 400 acres. Regarding impacts, state exempts certain activities depending on impact size and acres remaining, e.g., minor activities need no permit if impact less than 400 square feet, but if county more than 80% of remaining wetlands, impact threshold is higher. Annual reports includes avoidance (difference between proposed and authorized): In 1996, 16,353 landowner contacts, 3,547 acres avoided, 761 acres minimized, 550 acres drained/filled under Wetland Conservation Act, 526 acres replace, and 356 acres exempted. In 1998: 4,839 landowner contacts, 1,100 acres avoided, 29 minimized, 179 drained/filled, 158 replaced, and 113 exempt.</p>	
Fort Worth	<p>District has guidance: Mitigation and the Section 404 regulatory program (including mitigation plan check list).</p> <p>Mitigation usually required for impacts greater than 1/3 acre. Monitoring for minimum of 2 years with deed restrictions required.</p> <p>Many other mitigation measures for some nationwide permits involve revegetation of project footprint especially along streams.</p> <p>District has a few mitigation banks and in-lieu fee program.</p>	<p>Project managers conduct compliance inspections for authorized activities. Rely on public reports of non-compliance and enforcement activities. District has separate enforcement section (but these project managers also do project review and permitting). 25% of permitting time is spent on compliance and enforcement.</p>
Jacksonville	<p>Mitigation determined case-by-case basis. No district policy requiring mitigation for nationwide permit activities but many project managers ask what is proposed mitigation and leave it up to applicant to explain why mitigation not necessary and should not be required.</p> <p>State rules establish minimum and maximum ratios at which impacts are to be mitigated. Water Management District ratios patterned after state. Also six or seven local government approaches for determining ratios which vary widely. Corps requires function and value replacement and accepts a narrative assessment of functions. Some projects require comprehensive functional assessment using a variety of methodologies (Wetland Evaluation Technique, Habitat Evaluation Procedure, Hydrogeomorphic Method, etc).</p> <p>Operational Draft Joint Mitigation Banking Book describes numeric calculation of compensatory mitigation that includes Wetland Rapid</p>	<p>Compliance inspections are conducted for standard permits and nationwide permits and are tracked in RAMS. Enforcement responsibilities shared by project managers and by separate enforcement section. Enforcement staff works with project managers to make sure permit conditions are enforceable.</p> <p>State Office Program Policy Analysis and Government Accountability prepared report (March 2000) on wetland mitigation effectiveness and cost of mitigation options. Findings include: methodology and data system limitations prevent more accurate and complete evaluation of state wetland mitigation policy; mitigation requirement improvements and increased compliance and enforcement efforts have furthered state ability to protect wetlands; changes needed to ensure proposed mitigation adequately offsets loss of wetland functions (current ratios do not clearly value function attributes); and, various regulatory agency information systems have varying degrees of accuracy, general lack of documentation, and little data to measure program results.</p>

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Field Implementation**

	<b>Mitigation (primarily Compensatory Mitigation, but including avoidance and minimization as available)</b>	<b>Permit Compliance (primarily compensatory mitigation)</b>
	<p>Assessment Procedure, developed by a Water Management District. In 1998 public notice, Corps announced Operation Draft stating “Although an applicant is not required to perform Wetland Rapid Assessment Procedure, inclusion of Wetland Rapid Assessment Procedure or another functional assessment would expedite the District’s evaluation of permit applications and proposed banks.”</p> <p>State agencies still bound by Statute to use of ratios. House Bill 2365 requires Florida Department of Environmental Protection to “develop a uniform wetland mitigation assessment method no later than October 1, 2001...”, adopt it by rule by January 31, 2002, and the method “...must determine the value of functions provided by wetlands...” Corps is using the book’s method, but a Water Management District noted areas to be improved and prepared a very preliminary draft of a replacement. Ongoing effort to seek a consistency with Federal agencies.</p> <p>The district has many commercial and single-client mitigation banks and many state, water management district, and county-run banks and in-lieu fee programs.</p>	<p>Two agency studies (FDEP 1990 and WSWMD 1991) of mitigation success showed mitigation, when conducted (and in many cases it was not) did not produce intended results and on-site mitigation efforts, typically creation, were usually unsuccessful.</p> <p>Waterways Experiment Station (1991) reported results with similar implication. Man-made Spartina marshes in northern and central Florida could yield fish and wildlife habitat value similar to naturally occurring marshes, but siting marshes in heavily developed areas can adversely impact success. Report recommended consolidated wetland projects especially if off-site mitigation an option</p>
Norfolk	<p>District guidance, branch guidance for Wetlands Compensation Permit Conditions and Performance Criteria has set ratios for wetland types, permit conditions and performance criteria, e.g., including performance bonds, restrictive covenants. This guidance pertains to nationwide permits. Monitoring reports usually 1, 2, and 5 years after construction.</p> <p>Recent district study (2000): mitigation typically within watershed of impact site, expected to increase in future.</p> <p>District has numerous commercial mitigation banks, several Department of Transportation banks, and a state-wide in-lieu fee program.</p>	<p>“Cradle-to-grave” enforcement; state tidal program has strong enforcement presence, district uses pre-construction conference on all permits that are heavily conditioned regardless of permit type Corps studies underway/planned to evaluate compliance and overall wetland replacement effectiveness.</p>
New England	<p>District has checklist for review of mitigation plan.</p> <p>Massachusetts: state requires mitigation for most activities, 100% on-site, 2 years of monitoring.</p> <p>Connecticut: If state requires mitigation and Corps concurs, they incorporate it into their permit and monitor it.</p> <p>Maine: State-only required mitigation is not entered in RAMS. The state is effective at enforcing and monitoring conditions.</p> <p>Rhode Island: Typically no impacts greater than 5,000 square feet are authorized by the state. Anything greater than that requires mitigation</p>	<p>All states: Permit compliance handled by one project manager. 5% of programmatic general permit activities are inspected. Contractors must submit programmatic general permit activity work start notification to ensure they understand permit requirements.</p> <p>Maine. State is effective at enforcing and monitoring conditions.</p>

**Table B.3.1-3 Procedures Ensuring Minimal Adverse—Mitigation:  
Field Implementation**

	<b>Mitigation (primarily Compensatory Mitigation, but including avoidance and minimization as available)</b>	<b>Permit Compliance (primarily compensatory mitigation)</b>
	<p>(Programmatic general permits normally do not require mitigation by the Corps) Upland buffers may be required but this is not entered as mitigation in RAMS.</p> <p>Vermont: Programmatic general permit rarely requires mitigation. State requires 1:1 for all impacts based on functional loss, no enhancement.</p> <p>New Hampshire: Very little mitigation on programmatic general permits. If required, monitoring too. The state also monitors.</p>	

**Table B.3.1-4. Procedures For Ensuring Protection of Endangered Species:  
Field Implementation**

<b>District</b>	<b>FWS/NMFS Coordination</b>	<b>Endangered Species Information used for Screening Applications</b>	<b>Other</b>
Portland	<p>In water work windows established in consultation with NMFS and state agencies to protect salmonid species. Pre-construction notification required for many activities located in areas designated as essential salmon habitat. Permit file review indicates that district coordinates frequently with state fishery offices to protect endangered fisheries. Typical special conditions include in water work window for work during low flows. Coordination with NMFS as well (NMFS does not always respond to Corps requests for concurrence on endangered species determinations).</p>	<p>State natural heritage database maps and guidance from state fishery agency.</p>	<p>Standard Local Operating Procedures for Endangered Species (SLOPES). Project specific special conditions.</p>
Sacramento	<p>California and Nevada: Section 7 consultation handbook permit file review. California and Colorado: Two out of six permits reviewed in the endangered species sample involved endangered species surveys, and mitigation or avoidance of endangered species. Other files indicated either no endangered species, “no effect” in verification letter or coordination with U.S. FWS was not completed before verification letter was issued.</p>	<p>There are two California natural resources databases: one for endangered species and another for “important natural habitats”. Employees are well aware of the species that are listed, proposed for listing, and candidate species. Endangered Species Act (ESA) species are listed in the Sacramento District RAMS system. Maps of endangered fish species critical habitats. National ESA consultation handbook. Other species-specific information, e.g., Canada lynx conservation assessment and strategy. Project manager has direct access to U.S. FWS and Colorado Department of Wildlife web pages. Most importantly, we have a U.S.</p>	<p>SLOPES. Where applicable, programmatic biological opinion for vernal pool crustaceans attached to permit authorization.</p>

**Table B.3.1-4. Procedures For Ensuring Protection of Endangered Species:  
Field Implementation**

District	FWS/NMFS Coordination	Endangered Species Information used for Screening Applications	Other
		FWS office in Grand Junction, Colorado, only a local phone call away.	
Omaha	<p>Nebraska: Nationwide permits coordinated with U.S. FWS as needed. All standard permits are coordinated.</p> <p>North Dakota: Interagency meetings. All projects with potential to affect endangered species coordinated with U.S. FWS.</p> <p>Wyoming: Often U.S. FWS sends letter indicating they do not intend to take action on pre-construction notifications due to staffing and funding limitations if Corps determines no effect.</p> <p>Montana: Developing SLOPES. Coordination with state fishery biologists and conditioning of permits as appropriate. Almost all waters in state provide critical habitat for ESA species.</p> <p>South Dakota: Coordination as necessary. U.S. FWS receives copies of all public notices and applications for nationwide permits requiring pre-construction notification as appropriate.</p> <p>Colorado and North Dakota: Permit file review revealed permits involving endangered species. Coordination resulted in endangered species surveys, avoidance and alternative designs to protect endangered species. In North Dakota consideration river system and bank stabilization projects with conditions to protect endangered species.</p>		<p>SLOPES in effect in Colorado.</p> <p>SLOPES under development Montana, North Dakota, South Dakota, and Nebraska. Project specific special conditions.</p>
St. Paul	<p>IWR permit file review indicates that U.S. FWS recommended conditions included as special conditions in Corps authorization. Often (9 out of 31 in endangered species sample) RAMS indicates endangered species involved but file does not include any endangered species information (clerks enter endangered species determination, which may not be corrected by project manager). Section 7 done on entire length of linear projects, state also conducts review for endangered species.</p>	<p>County-identified endangered species lists.</p> <p>Corps cannot use state natural heritage database in Wisconsin (concern that information would be releasable under Freedom of Information Act).</p> <p>State database used in Minnesota.</p>	<p>Project-specific special conditions.</p>
Fort Worth	<p>Often the permit area does not include the area where the effect may be, Project managers work with U.S. FWS to provide the best protection possible. State fish and wildlife agency responds to pre-construction notifications on occasion.</p>	<p>U.S. FWS database of endangered species in Texas.</p>	<p>Project-specific special conditions.</p> <p>No SLOPES, but informal consultation is working.</p>

**Table B.3.1-4. Procedures For Ensuring Protection of Endangered Species:  
Field Implementation**

District	FWS/NMFS Coordination	Endangered Species Information used for Screening Applications	Other
Jacksonville	<p>If project affects endangered species, project categorized as individual permit until issues resolved. Branch chief signs all project specific special conditions. Regional general conditions to protect manatees in all permits within designated manatee areas.</p> <p>Permit file review of endangered species sample indicated that 5 out of 7 permits included standard Manatee conditions. One had a management plan for endangered species and one had mitigation for endangered species.</p>	<p>Manatee Keys. State database. U.S. FWS endangered species lists. Information is available on the Internet. Some field offices indicate that endangered species are identified by county and by ecological community type. A multi-species recovery plan for South Florida provides species life history and habitat requirement information. Critical habitat is in 50 CFR 17.95, but may not be map based. There are no maps available for the crocodile or the manatee. Maps are available for other species, e.g., Piping Plover has critical habitat maps.</p>	<p>Branch chief signs all project-specific special conditions.</p>
Norfolk	<p>Pre-construction notification required for all activities in areas where endangered species have known presence. Pre-construction notification coordination with U.S. FWS on nationwide permits 7, 12, 13, 14, 17, 18, 21, 26, 27, 29, 31, 33, 37, and 38. Pre-construction notification coordination with NMFS on nationwide permits 5, 7, 12, 13, 14, 17, 21, 26, 27, 29, 31, 33, 37, and 38. Permit file review revealed special condition that does not allow work to commence until Section 7 consultation completed. Coordination with U.S. FWS resulted in surveys, time-of-year restriction and mitigation.</p>	<p>Memorandum of Understanding with Virginia Department of Conservation and Recreation (state natural heritage database) for species lists and locations database used in project review. Hits receive informal Section 7 consultation. Information is not releasable without first coordinating with Office of Counsel. Areas where endangered species are known to be present are identified so that red flag is raised when applications for activities in these areas are proposed. Game and Inland Fisheries Database used occasionally (not always because it is cumbersome). NMFS: Maps depicting anadromous fish runs in state waters. Maps of locations of known species and all projects within these areas are coordinated with U.S. FWS. (Chickahominy River, James River) Endangered species branch guidance (e.g., scope of analysis)</p>	<p>SLOPES under development. Project-specific special conditions. 1996 unresolved policy issues in Norfolk District. District pre-construction notification procedures (1997). Provisional permits during Section 7 consultation so that time does not continue to be counted against district.</p>
New England	<p>Permit file review indicates endangered species issues are addressed either through special conditions (e.g., time-of-year restrictions, mitigation) or project may be reviewed under individual permit review process.</p>	<p>Interagency meetings for Category 2 activities allow agencies to work with Corps to address endangered species issues. Massachusetts: NMFS – all Essential Fish Habitat designated by town and stream.</p>	<p>Special conditions.</p>

**Table B.3.1-5. Procedures For Ensuring Protection of Historic and Cultural Resources:  
Field Implementation**

District	SHPO Coordination	Information Used
Portland	<p>All pre-construction notifications sent to State Historic Preservation Officer (SHPO). SHPO rarely comments. SHPO coordinates with Corps archaeologist and project manager on cultural resource issues.</p> <p>No Memoranda of Agreement or other agreements.</p> <p>Tribal coordination procedures being developed.</p>	<p>SHPO has not provided a list of activities that are likely to affect cultural resources.</p> <p>SHPO provides known archaeological site maps to Corps archaeologist for use in screening and project reviews.</p> <p>Corps Planning archaeologist reviews all individual permit activities with potential effect. He does not review nationwide permit activities unless project manager requests review.</p>
Sacramento	<p>All pre-construction notifications sent to SHPO. SHPO response varies from state to state. No agreements or Memoranda of Agreement; rely on nationwide permit general condition 12 (except Nevada).</p> <p>Mitigation sometimes required for traditional cultural areas</p> <p>General permit in Lake Tahoe (Tribes are coordinated with on this general permit).</p> <p>Nevada: Tribes request pre-construction notifications for activities outside of reservations because of presence of traditional cultural areas.</p>	<p>California: SHPO identified "hot spots" the state.</p> <p>California and Nevada have cultural resource data centers.</p> <p>Colorado historic sites on home page.</p> <p>District: Planning archaeologist used primarily on nationwide permit 26 activities.</p>
Omaha	<p>Pre-construction notifications coordinated with SHPO. SHPO responds to pre-construction notifications in some states. District did not indicate that SHPO does not respond in other states.</p> <p>SHPO comments consist of survey requests, district archaeologist always review requests for surveys and make determination</p> <p>Cultural resource conditions and discovery plan language in body of all verification letters.</p> <p>Reburial is an issue.</p> <p>In North Dakota and South Dakota, Tribal Historic Preservation Officers (THPOs) receive pre-construction notifications for activities within reservations. Tribes in Wyoming are on the mailing list and receive pre-construction notifications for activities on reservations.</p>	<p>Colorado: Programmatic Agreement with SHPO, Advisory Council on Historic Preservation (ACHP) and Corps for water storage and transmission lines for current, future residential and commercial needs of Central City, Colorado.</p> <p>Internet, SHPO database.</p> <p>National Register of Historic Places.</p> <p>Planning archaeologist used.</p>
St. Paul	<p>Pre-construction notifications coordinated with SHPO. SHPO responds.</p> <p>Corps addresses issues as needed if SHPO comments after permit issued. May rescind or modify as necessary. Permit file review supports this assertion.</p>	<p>Broad knowledge of cultural resources sites along the Mississippi River.</p> <p>Wisconsin provides list of activities not likely to affect cultural resources.</p> <p>Planning archaeologist used when request for survey is</p>

**Table B.3.1-5. Procedures For Ensuring Protection of Historic and Cultural Resources:  
Field Implementation**

District	SHPO Coordination	Information Used
		<p>made.</p> <p>Corps relies on other agency compliance with Section 106 of the National Historic Preservation Act associated with National Environmental Policy Act review (e.g., Department of Transportation/Federal Highway Administration)</p> <p>Minnesota: Corps coordinates activities that do not require pre-construction notification with SHPO and planning when known site is involved.</p>
Fort Worth	<p>All pre-construction notifications are sent to SHPO as required.</p> <p>Regulatory archaeologist reviews all permits for cultural resources. Approximately 8-10% of proposed activities require additional information, surveys, modification after initial review (may be the reason why no special condition because cultural resources are addressed in permit review, ensuring no effect).</p> <p>The branch has an archaeologist on staff. All applications are reviewed for potential affects to cultural and historic resources. Information is provided to project managers regarding areas with likelihood or potential for resources where surveys might be appropriate or where these issues might be considered.</p> <p>The SHPO does not provide comments on the vast majority (95%) all permits (those where a pre-construction notification or public notice is provided). The SHPO does provide comments on individual permits and their standard response includes a request for a survey. The branch archaeologist reviews all actions and determines the need for a survey.</p> <p>Approximately, ten percent of the nationwide permit activities receive additional review for cultural resource reasons based on the staff archaeologist's initial review. About 8-10% of these are modified, surveyed, or required to conduct additional work.</p>	<p>Archaeologist has access to SHPO database. Critical cultural resource areas by county and waterways are provided to project managers.</p>
Jacksonville	<p>SHPO provides comments on as many pre-construction notifications as possible. If survey recommended, district provides letter copy and appropriate information needs to applicant. District uses Corps Planning archaeologists as necessary. Area of potential effect not an issue.</p> <p>Corps has designated point-of-contact for all tribal activities. Two federally recognized tribes: Seminole Tribe and Miccosukee Tribe. Corps</p>	<p>SHPO provided Corps list of qualified consultants. Branch chiefs expect Project managers to use recently installed Environmental Resource Permit Geographic Information System (GIS) when information for all permits when made available. Some cultural resource information included in GIS application and ongoing efforts to expand that information. District preparing guidance for which class of applications the Environmental Resource Permit GIS will be used.</p>

**Table B.3.1-5. Procedures For Ensuring Protection of Historic and Cultural Resources:  
Field Implementation**

<b>District</b>	<b>SHPO Coordination</b>	<b>Information Used</b>
	point-of-contact provides information on program changes to Tribes at quarterly meetings organized by Corps Native American Coordinator.	
Norfolk	<p>Programmatic agreement with SHPO and ACHP excludes several nationwide permits and some activities authorized by regional general permits.</p> <p>Only nationwide permits 14, 26, 29, and 38 must be coordinated with SHPO, but staff coordinate if known historic resources, applicant-provided information, or area known to contain historic resources.</p> <p>Internal guidance (1994) specifies coordination procedures with SHPO on regional general permits, letters of permission, and standard permits.</p> <p>Virginia Department of Transportation has Memorandum of Agreement with Virginia Department of Historical Resources.</p> <p>Corps: SHPO responsive to pre-construction notifications.</p> <p>Tribal issues have not been cause for concern.</p>	<p>SHPO currently developing a database for cultural resources.</p> <p>Two project managers assist other staff in review of activities potentially affecting cultural or historic resources.</p>
New England	Programmatic general permits mimic nationwide permit general condition.	

**Table B.3.1-6. Procedures for Water Quality Certification and Coastal Zone Management Consistency: Field Implementation**

<b>District</b>	<b>Field implementation</b>	<b>Use of Provisional Permits</b>
Portland	<p>Nationwide permits 16, 17, 21, 23, 27, 29, 34, 35, and 40 denied water quality certification (WQC). Each activity requires individual WQC.</p> <p>Nationwide permits 3, 14, 19, 26, 28, and 36 WQC issued with qualification conditions.</p> <p>WQC for nationwide permits 12, 13, 14, and 33 issued with implementation conditions.</p> <p>Coastal Zone Management (CZM) consistency determinations: Nationwide permits 4, 10, 14, 16, 19, 26, 28, and 36 issued with qualification conditions.</p> <p>Nationwide permits 12, 13, 14, 33, and 35 issued with implementation conditions.</p> <p>Nationwide permits 8, 15, 17, 23, 29, 34, 37, and 40 denied CZM. Each activity requires individual CZM.</p>	<p>Yes. it appears that Department of Environmental Quality review does not begin until Corp review is complete.</p>
Sacramento	<p>California: Regional Water Quality Boards have state involvement only if denial is recommended by regional board. Nationwide permits placed in three categories: Class 1 nationwide permits are conditionally certified (17 nationwide permits), Class 2 nationwide permits are, in the interim, denied without prejudice (with special conditions that would be developed), and Class 3 nationwide permits are denied without prejudice. At the time of the IWR interview, special conditions had not yet been developed, hence the</p>	<p>California: Yes, and follow up letters go out when WQC is issued or waived. However if water quality is a significant issue in Corps evaluation district may not use provisional verifications and wait until</p>

**Table B.3.1-6. Procedures for Water Quality Certification and Coastal Zone Management Consistency: Field Implementation**

District	Field implementation	Use of Provisional Permits
	<p>nationwide permits in Class 2 were effectively denied without prejudice.</p> <p>Class 2: Nationwide permits 2, 3, 12, 15, 18, 19, 27, 31, 33, 35, 37, and 40. Class 3: Nationwide permits 7, 8, 13, 14, 16, 17, 21, 23, 25, and 26.</p> <p>On Tribal lands U.S. EPA conditioned 31 nationwide permits and denied certification on 7 nationwide permits, including nationwide permits 16, 18, 21, 26, 29, 31, and 37.</p> <p>Colorado: All nationwide permits and regional general permits are certified by Law.</p> <p>Nevada: All nationwide permits that also require state discharge permit are certified. WQC denied for other activities depending on size of the project.</p> <p>Utah: WQC effectively waived since no response or specific list of nationwide permits. (State may be sued changing this procedure.)</p> <p>Coastal Zone Management Act issues are handled by the San Francisco District.</p>	<p>water quality issues are addressed.</p> <p>Nevada: Yes. Utah and Colorado: No.</p>
Omaha	<p>North Dakota: Department of Environmental Health has issued WQC for nationwide permits 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 15, 21, 22, 28, 36, and 37, provided the construction and environmental disturbance requirements are attached as a condition to the nationwide permit verification letters. Additional conditions have been placed on nationwide permits 12, 13, 14, 18, 19, 23, 25, 26, 27, 29, 31, 32, 33, and 40. North Dakota Department of Environmental Health has denied WQC for nationwide permits 16, 17, 20, 30, 35, and 38.</p> <p>South Dakota: State Department of Environment and Natural Resources issued/waived WQC on all nationwide permits and conditioned nationwide permit 29 to eliminate septic fields.</p> <p>South Dakota Reservations: U.S. EPA has issued/waived WQC for nationwide permits 1 through 6, 8 through 11, 14, 15, 19 through 25, 27 through 30, 32, 34, 35, 36, 37, 38, and 40. U.S. EPA has temporarily denied WQC for nationwide permits 7, 12, 13, 16, 17, 18, 26, 31, and 33. These nationwide permits would require special conditions.</p> <p>Montana: Montana Department of Environmental Quality has denied WQC for nationwide permits 12, 26, and 13 for projects that exceed 500 feet on the Yellowstone, Kootenai, Missouri, Flathead, and Clark Fork Rivers and for projects that exceed 300 feet on all other streams. WQC has been issued on all other nationwide permits.</p> <p>Montana Reservations: U.S. EPA (Indian reservations except Confederated Salish and Kootenai and the Fort Peck Tribe) has issued/waived WQC for nationwide permits 3, 4, 5, 6, 14, 15, 20, 21, 22, 23, 25, 27, 29, 30, 32, 34, 36, 37, 38, and 40.</p> <p>U.S. EPA has denied WQC for nationwide permits 7, 12, 13, 16, 17, 18, 26, 31, and 33. (Further clarification needed to understand why there are differences between Montana Department of Environmental Quality WQC decisions and EPA/Tribe decisions. It appears that Tribes that have their own Section 401 authority have denied water quality for many more permits.)</p>	<p>North Dakota: No (not necessary).</p> <p>South Dakota Reservations: Yes.</p> <p>Montana: The district issues provisional permits but not frequently.</p> <p>Wyoming: No (not necessary).</p> <p>Colorado: No.</p> <p>Nebraska: No.</p>

**Table B.3.1-6. Procedures for Water Quality Certification and Coastal Zone Management Consistency: Field Implementation**

District	Field implementation	Use of Provisional Permits
	<p>Confederated Salish and Kootenai and the Fort Peck Tribe: Confederated Salish and Kootenai Tribes denied WQC for nationwide permits 7, 12, 13, 14, 16, 17, 18, 23, 26, 27, 29, 31, and 33. They issued/waived WQC for nationwide permits 3, 4, 5, 6, 15, 20, 21, 22, 25, 30, 32, 34, 36, 37, 38, and 40. Fort Peck Tribe denied WQC for nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 26, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, and 40.</p> <p>Wyoming: The Wyoming Department of Environmental Quality has provided conditions which all activities must comply with (both nationwide permits and individual permits). These conditions include:</p> <ol style="list-style-type: none"> <li>a. Work in the dry.</li> <li>b. Fording allowed with effort to minimize turbidity.</li> <li>c. High flow insurance/removal of temporary structures.</li> <li>d. Minimal disturbance.</li> <li>e. Prevent petroleum products, chemicals, and other materials from entering stream.</li> </ol> <p>Department of Environmental Quality issued/waived WQC for nationwide permits 1, 2, 4, 8, 9, 10, 11, 15, 19, 20, 21, 22, 24, 28, 34, 35, and 38. Department of Environmental Quality issued WQC for nationwide permits 3, 5, 6, 7, 12, 13, 14, 18, 25, 26, 29, 30, 32, 33, 36, and 37 in all waters except Class I waters (these nationwide permits must get an individual WQC from the Department of Environmental Quality for activities in Class I waters). Department of Environmental Quality has denied WQC for all waters for nationwide permits 16, 17, 23, 27, 31, and 40.</p> <p>U.S. EPA has waived WQC on the Wind River Indian Reservation for nationwide permits 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 14, 15, 19, 21, 22, 23, 24, 25, 27, 28, 29, 30, 32, 34, 35, 36, 37, 38, and 40.</p> <p>U.S. EPA has denied WQC for nationwide permits 7, 12, 13, 16, 17, 18, 26, 31, and 33.</p> <p>Colorado: Colorado Statute requires that the Department of Health certifies all nationwide permits, therefore WQC is issued for all nationwide permits (none have been denied). Nationwide permit 26 is revoked for activities proposed in fens. A special regional condition requires that all other proposed activities that impact greater than 1/10 acre must submit a pre-construction notification. (Not sure if this is for the new nationwide permits or 1996 package)</p> <p>Nebraska: The Department of Environmental Quality has waived/issued WQC for nationwide permits 4, 5, 7, 13, 14, 15, 16, 17, 19, 21, 22, 25, 27, 30, 31, 32, 33, 34, 36, and 37 except in State Resource Water Class A (which constitute an outstanding State or National resource... no degradation is allowed). Nationwide permits 3, 6, 12, 18, 20, 23, 26, 29, and 38 are all conditionally certified, provided the conditions are met. The Corps attaches the WQC conditions to all Corps nationwide permit verifications.</p> <p>The Department of Environmental Quality denied WQC for nationwide permit 40.</p> <p>U.S. EPA Region VII as Federal trust agency for the nine Tribes in the region, in coordination with the Tribes, included final recommended</p>	

**Table B.3.1-6. Procedures for Water Quality Certification and Coastal Zone Management Consistency: Field Implementation**

District	Field implementation	Use of Provisional Permits
	conditions for proposed nationwide permit activities within the exterior boundaries of the reservations. Letter dated January 7, 1998, requests decision regarding proposed conditions for WQC on Indian reservations.	
St. Paul	<p>Wisconsin Department of Natural Resources denied WQC for all nationwide permits and reviews all nationwide permit activities</p> <p>Minnesota has denied WQC certification for nationwide permit 31.</p>	Yes, in both states. Also if states determine that WQC is denied before the Corps makes its decision, district will deny without prejudice.
Fort Worth	WQC has been issued/waived for all nationwide permits with the exception of nationwide permit 16. WQC conditions are attached to all Corps permits. EPA has not designated priority watersheds in Texas. District is currently working with state to develop streamlined process for issuing individual WQC certifications.	Not necessary for nationwide permits but occasionally for individual permits. Mitigation is often required and Corps authorization is contingent upon receipt of a mitigation plan.
Jacksonville	<p>Florida: Nationwide permits 2, 3, 4, 5, 13, and 20 have been issued WQC with conditions. For some activities, the district will deny the project without prejudice if the project does not meet the terms of the regional conditions.</p> <p>WQC has been issued for nationwide permits 7, 9, 10, 12, 14, 15, 16, 17, 19, 22, 23, 25, 27, 28, 30, 31, 33, 36, 37, and 40. However, projects must be individually reviewed by the state. (Language in the Corps authorization tells applicant that the state must also review the project for WQC).</p> <p>Nationwide permits 26 and 29 are denied WQC. Individual WQC is required.</p> <p>CZM is issued for nationwide permits 1, 32, and 39 without conditions.</p> <p>CZM is issued for nationwide permits 4, 5, 13, and 20, with conditions.</p> <p>Individual CZM is required for nationwide permit 2, and some nationwide permit 3 activities (those seaward of the state's coastal construction control line and along ocean inlet shorelines).</p> <p>Nationwide permit 6 activities in the Everglades will require individual CZM and therefore will be denied without prejudice and an individual CZM determination will be required.</p> <p>Seminole Tribe: Nationwide permits 3, 7, 13, 14, 15, 18, 19, 20, 22, 23, 25, 26, 29, 30, 31, 32, 33, 35, 37, 38, and 40 have been issued WQC with no conditions.</p> <p>Nationwide permits 16 and 27 are denied WQC and individual WQC is required.</p> <p>Nationwide permits 5, 12, 17, 20, and 36 are issued WQC with conditions.</p> <p>Nationwide permit 6 requires individual WQC.</p> <p>Nationwide permits 29 and 35 are denied CZM consistency.</p>	The Corps issues provisional permits if the state has not completed their individual review of a project at the time the project manager is ready to make their decision (e.g. nationwide permits 3 and 13) and the project meets the terms and conditions of the permit. Denial without prejudice language is used for activities that have been denied water quality certification. These activities can be authorized upon the district receipt of individual WQC.
Norfolk	<p>WQC waived on all nationwide permits except nationwide permits 7, 16, 17, and 26 (for activities that cause the loss of greater than 1 acre of surface waters).</p> <p>CZM: same as WQC and reviewed by both the state and local wetlands</p>	Yes

**Table B.3.1-6. Procedures for Water Quality Certification and Coastal Zone Management Consistency: Field Implementation**

District	Field implementation	Use of Provisional Permits
	board.	
New England	Not applicable.	
Overall	<p>Section 401 Water Quality Certification and Coastal Zone Consistency Determinations for the nationwide permits varies widely depending on the individual state programs and priorities. For example, in some districts the state will issue water quality certification for certain nationwide permits, issue water quality with certain conditions, or they may deny water quality for all activities or certain nationwide permit categories (e.g., Wisconsin denied WQC for all nationwide permits in 1996, Virginia issued WQC for all nationwide permits with the exception of nationwide permit 26, and in Florida the state agency has denied WQC for nationwide permits 26 and 29, issued WQC for nationwide permits 2, 3, 4, 5, 23, and 20 with certain conditions and issued WQC for the remaining nationwide permits. In some cases districts and states may agree to deny or condition WQC for the nationwide permits in certain geographic regions or ecosystems (e.g. in Nebraska, WQC is denied in designated outstanding state resource areas). Certain states have laws which require that all nationwide permits receive WQC. WQC for activities within the exterior boundaries of Indian Reservations is made by either U.S. EPA or the Tribe where they have assumed the Section 401 program. Interestingly, in some cases WQC has been denied by U.S. EPA or Tribes and issued by state water quality agencies. As a result applicants within the exterior boundaries of the reservation must apply for an individual water quality certification. Districts coordinate WQC for nationwide permits with U.S. EPA, Tribes and states as appropriate. Nationwide permit general condition 9 states "In certain states, an individual water quality certification must be obtained or waived."</p> <p>CZC determinations for NWP are coordinated similar to WQC. NWP General Condition 10 requires that in certain states, an individual CZM consistency concurrence must be obtained or waived.</p> <p>In some instances if the Corps determines that certain WQC/CZM conditions required by the state agencies (during the negotiation of WQC and CZM concurrence for the NWP program) are inappropriate conditions for a DA authorization, the district will consider the WQC or CZM concurrence denied for that NWP category or NWP.</p>	<p>Under certain circumstances where the state agency has denied the WQC/CZM for a category or categories of nationwide permits, the Corps may coordinate its review with the state agency. Corps districts most typically use provisional permits. If the state agency does not make its decision on WQC/CZM within the time frame (e.g., 15 days) and the Corps finds that the activity meets the terms and conditions of the nationwide permit, the Corps may issue a provisional certification (rather than deny without prejudice). As a result the Corps authorization includes a condition that states that WQC/CZM must be received before work may begin. (This allows the Corp to accurately report actual time for Corps review).</p> <p>However, if water quality issues are significant (e.g. the terms and conditions are not met), the Corps will generally deny the activity without prejudice.</p>

**Table B.3.1-7 – Site Visits: Field Implementation**

<b>District</b>	<b>Pre Application Meetings</b>	<b>Site Visits</b>	<b>Desktop Determinations</b>
Portland	Usually not for nationwide permits. However, if an applicant requests one district will accommodate. Typically agencies do not participate.	Project managers do not conduct site visits. However, the district wetland specialists would conduct a jurisdictional determination for activities affecting wetlands and provide site-specific information to the project managers as needed. In the future the district will begin requiring all project managers to conduct site visits on a case by case basis. Wetland specialists also performed many jurisdictional determinations even though a permit application did not accompany the request.	Distance between the district office in Portland and the proposed activity limits the number of site visits that are conducted by Corps project managers. In some instances the project managers coordinate with state agencies including the Oregon Division of Fish and Wildlife biologist to provide site-specific information that may be used during evaluation of the proposed activity. The district and NRCS coordinate jurisdictional determinations on farmlands. The ODSL may conduct a site visit and coordinate the results of the visit with the Corps
Sacramento	California: Typically do not do pre-application meetings for nationwide permit activities that do not require notification. There are often pre-application meetings for activities that require pre-construction notification. There are many more informal pre-applications through phone calls. U.S. EPA usually attends. U.S. FWS occasionally attends, especially if there is an Endangered Species Act issue. The California Department of Fish and Game attends sometimes. There are few nationwide permits pre-application meetings with the agencies. There are scheduled monthly meetings with the agencies (first Thursday of the month) that potential applicants can attend if they get on the agenda. Staff indicate that agency staff primarily state their policies rather than working with the applicant. Typically decision-making personnel don't attend pre-apps. Colorado: Does pre-application coordination on many projects because the applicant wants to know what they have to do and what can be authorized; Department of	California: Site visits if necessary. Field checks 10 - 20% of the jurisdictional determinations for nationwide permit activities; for required pre-construction notifications, check 20% of the jurisdictional determinations. Office often depends on California Department of Fish and Game (CDFG) to provide field information; will call CDFG if a site visit or a person with a gun is needed. CDFG often calls the Corps for a joint site visit. U.S. FWS usually attends if there are small vernal pool sites and they want to verify the vernal pool field. Most agencies will not attend field visits for jurisdictional determinations. Colorado: There is a high likelihood of site visits due to the pre-application process. Consultants do most jurisdictional determinations, but 60-70% are verified by the Corps. Delineations by inexperienced consultants are field checked by the Corps; jurisdictional determinations are often done before a submittal of a permit application. Other agencies attend site visits only if there are substantial issues. Nevada: Site visits are conducted if necessary. Office field checks 15 – 20% of the jurisdictional determinations for nationwide permit activities. The staff knows their areas well, has aerial photographs, and can rely somewhat on NRCS field staff. U.S. EPA rarely attends, but the Nevada Division of Environmental Protection and the state land agency often attend site visits. NRCS also attends if the activity is on	California: Desktop determinations on 80% of pre-construction notifications for nationwide permits. Colorado: Desktop jurisdictional determinations are done for areas of obvious uplands; For those consultants who do quality work, a desktop review of their jurisdictional determination is typically done; Utah: For those consultants who do quality work, a desktop review of their jurisdictional determination is typically done.

**Table B.3.1-7 – Site Visits: Field Implementation**

District	Pre Application Meetings	Site Visits	Desktop Determinations
	<p>Transportation typically does pre-application consultations. U.S. FWS often attends pre-application meetings for larger projects. U.S. FWS is more responsive because of Endangered Species Act issues and the applicant needs to work with them. U.S. EPA has travel problems so they rarely attend meetings. State agencies attend more than Federal agencies.</p> <p>Nevada: Typically do pre-application meetings for nationwide permit activities, especially for urban developments or restoration projects. Formal or informal meetings occur 30% of the time. If telephone conversations are included, 50% applications involve pre-application discussions. Most pre-application meetings occur so that the potential applicant can get better knowledge of the regulatory program. Experienced project proponents often do not utilize the pre-application process. There are scheduled monthly meetings with the agencies (fourth Thursday of the month) that potential applicants can attend if they get on the agenda. The U.S. FWS, Nevada Department of Environmental Protection, and U.S. EPA attend.</p> <p>Utah: Almost every nationwide permit activity has a pre-application coordination. Uses telephone calls and meetings; Average pre-application time is 1-2 hours per site. U.S. FWS participates more often than U.S. EPA. State agencies attend more than Federal agencies, especially for streambed alteration projects.</p>	<p>agricultural land. Most agencies do not want to attend field visits for jurisdictional determinations.</p> <p>Utah: There is a high likelihood of site visits due to the pre-application process. Consultants do most jurisdictional determinations, but 60% are verified by the Corps; delineations by inexperienced consultants are field checked by the Corps. Other agencies rarely attend field reviews.</p>	
Omaha	<p>North Dakota: Since 1998 the field office has implemented biweekly Interagency Coordination Meetings (ICM). Depending on the nature and scope of the project, pre-</p>	<p>North Dakota: Site visits are conducted for controversial large projects usually processed using and individual permit. Common sense is applied.</p> <p>South Dakota: If the project manager is uncomfortable with the available</p>	<p>North Dakota: The field office uses both site visits and desktop reviews to determine jurisdiction. For desktop determinations, project managers uses soil maps,</p>

**Table B.3.1-7 – Site Visits: Field Implementation**

District	Pre Application Meetings	Site Visits	Desktop Determinations
	<p>application meetings are arranged. Larger projects are reviewed during the biweekly ICM. Much of the coordination on proposed activities occurs between the Corps, U.S. FWS, NRCS and state agencies.</p> <p>South Dakota: Generally if the Corps is made aware of a project they believe may result in issues that need to be addressed early in the planning and design of the project they will notify the applicant and recommend a pre-application coordination meeting.</p> <p>Montana: Pre-application consultation is conducted on a case by case basis at the request of the applicant. The Montana office uses an interagency meeting held every 2 weeks mainly to discuss new projects but can be used to provide updates on old projects.</p> <p>Wyoming: The field office conducts pre-application coordination as requested by applicants for all types of permits. Other agencies rarely attend site visits or pre-application meetings.</p> <p>Colorado: There is a lot of pre-application coordination on almost every application between the agencies on projects because the Denver area is heavily urbanized and under going a lot of development.</p> <p>Nebraska: Both individual permits and nationwide permits involve pre-application coordination when they involve large projects. Quarterly interagency meetings are held to provide information on new projects and to update agencies on the status of active projects.</p>	<p>information, a site visit is conducted almost always with NRCS. Other agencies sometimes attend site visits on complex projects.</p> <p>Montana: Rarely</p> <p>Wyoming: Other agencies rarely attend site visits or pre-application meetings. Site visits are conducted on approximately 30% of pre-construction notifications for nationwide permits. The remaining receive a desktop review. Typically other agencies do not attend site visits unless invited by the applicant (private land issue). Project managers will conduct jurisdictional determinations for small municipalities and “mom and pop” applicants. Surveys are not usually required for these applicants or for these minor type activities that can be authorized by nationwide permits. However if the project is near the upper limit, a more detailed delineation and survey may be required.</p> <p>Colorado: Because the field office covers a smaller area of the state compared to other district field offices project managers are able to conduct site visits on 20-40% of nationwide permit applications. Occasionally the U.S. EPA will attend site visits usually for those being process under an individual permit.</p> <p>Nebraska: Site visits are occurring less and less for nationwide permits; however, site visits may still be conducted for some nationwide permit 26 activities. Project managers conduct site visits for all individual permits. NRCS and U.S. FWS occasionally attend site visits. U.S. EPA does not usually attend due to workload and logistics.</p>	<p>national wetland inventory maps and ArcView-RAMS.</p> <p>South Dakota: Ninety percent (90%) of jurisdictional determinations are made in the office. Project managers use NRCS wetland maps, National Wetland Inventory maps, and occasionally consultant wetland reports if submitted (state does not have a lot of environmental consulting firms).</p> <p>Montana: The majority of jurisdictional determinations for nationwide permits are done through a desktop review of available information. The majority of permitting involves projects affecting streams.</p> <p>Wyoming: Desktop determinations for 70% of pre-construction notifications for nationwide permits. Project managers rely on delineation accuracy when the Wyoming Department of Transportation is the applicant and rarely conduct site visits for Department of Transportation nationwide permits projects.</p> <p>Colorado: Rarely.</p> <p>Nebraska: For all but certain nationwide permit 26 applications, desktop determinations are done using various tools including Arc View-RAMS, soils and National Wetland Inventory data in ArcView-RAMS.</p>

**Table B.3.1-7 – Site Visits: Field Implementation**

<b>District</b>	<b>Pre Application Meetings</b>	<b>Site Visits</b>	<b>Desktop Determinations</b>
Fort Worth	The district conducts approximately 15-20 pre-application consultations per quarter for all types of permits.	Field determinations are seldom conducted due to familiarity with the region and workload constraints. Occasionally field determinations or field verifications are conducted depending on the availability of information and complexity of the project. Many of the applications do not initially include basic information (National Wetland Inventory and soils maps) or wetland delineation. If wetlands are likely to be present the project manager advises the applicant to hire a consultant to delineate the wetlands and other waters on the project site. In addition to field visits related to jurisdictional determinations, project managers make on-site visits and conduct meetings to discuss impact avoidance and minimization, alternative site design and alternative project measures, and potential location and features for compensatory mitigation.	Desktop jurisdictional determinations are made on a majority of proposed nationwide permit activities.
Jacksonville	The majority of pre-application meetings with applicants are held for projects being reviewed under the individual permit process. Pre-application discussions may be held in the field, office or over the phone. Agencies rarely attend these sessions. Corps project managers review projects with their state Water Management District counterpart at monthly meetings. Federal agencies may attend on a case by case basis.	The majority of jurisdictional determinations are done in the field. The Corps does not rely on state agencies for jurisdictional determinations because the state non-tidal jurisdiction does not match the Federal jurisdiction. Historically the district conducted jurisdictional determinations prior to receiving an application for a proposed project but this is done less often due to workload.	The district does not usually field verify activities that qualify for the programmatic general permit.
Norfolk	Project managers conduct pre-application coordination meetings for all types of permits used in the district. Many of the permit files reviewed by IWR indicate that pre-applications meetings were conducted. On large potentially controversial projects, the Corps may invite the resources agencies to attend. U.S. FWS will attend but U.S. EPA rarely attends.	Project managers conduct site visits on 90% of all applications received (this may shift as a result of the increase in workload that is anticipated from the new nationwide permits). Project managers rely on information provided by consultant or agent for the applicant. The district has provided guidance to the regulated community on what will facilitate the review of a project. (Information is not required but can be offered to assist the project managers in the review of their project.) The district does not rely on the state or local wetland board for jurisdictional determinations. Federal agencies rarely attend site visits. However, there often are joint site visits	Desktop determinations may be conducted on some small projects or those located far from the district or field office or in cases where the project is speculative in nature (e.g. no plan for site development).

**Table B.3.1-7 – Site Visits: Field Implementation**

District	Pre Application Meetings	Site Visits	Desktop Determinations
New England	<p>Massachusetts: The pre-application process is used extensively for individual permits and general permits (especially large developments that may qualify for the programmatic general permit, e.g., golf courses). These are entered into RAMS. Category 2 activities are reviewed by the Corps, coastal zone management, and Federal agencies (U.S. EPA, U.S. FWS, and NMFS). The Corps holds joint processing/screening meetings every three weeks to review Category 2 applications. New Hampshire: Pre-application consultations for programmatic general permit projects are rare. Effective coordination occurs with the state and Federal agencies through the screening process. Pre-application consultations for individual permits may result in the project being redesigned to fit the programmatic general permit. Pre-application consultations are logged into RAMS. Vermont: Occasionally, pre-application meetings are held for programmatic general permit projects. Rhode Island: Pre-application meetings for programmatic general permit activities are rare. Maine: Pre-application consultations are mainly conducted on individual permits. Connecticut: Pre-application meetings are used for programmatic general permit and individual permit activities. The district tracks these meetings in RAMS. The section chief rotates the assignment of pre-applications.</p>	<p>with Department of Environmental Quality, the wetlands board, and/or the local government.</p> <p>Massachusetts: The district conducts field visits on approximately 10-20% of all Category 2 activities. Site visits are conducted on 100% of all individual permit projects. Jurisdiction is normally determined based on the datasheets submitted by consultants. When site visits are otherwise planned, the opportunity to verify delineation's in the field is done. Other agencies attend site visits as necessary. The Department of Environmental Protection conducts site visits on all activities requiring a Section 401 certification for their Section 401 inspection reports. Department of Environmental Protection takes the lead in verifying delineations for the bulk of the category 2 projects. New Hampshire: The state applies a delineation method that is very similar to the 1987 Federal manual. The Corps relies on the state, mainly, to verify the programmatic general permit delineations. Occasionally, a field visit is needed when there are questions or concerns about the data sheets. State takes the lead in programmatic general permit delineation verifications. Other agencies attend site visits when they are made. Vermont: Site visits to confirm jurisdiction are often done on projects by the Corps or the state. Other Federal agencies rarely attend site visits related to jurisdictional determinations. Rhode Island: The Corps visits 90% of all proposed activities in coastal areas. Site visits are conducted for all projects affecting salt marshes and eelgrass beds. Eelgrass beds are mapped on the state National Wetland Inventory maps. Occasionally the project managers verify the presence and extent of eelgrass (diving) and provide this information to the state. Other agencies do attend site visits as necessary. Maine: The state applies a delineation method that is very similar to the 1987 Federal manual. Therefore, the state takes the lead on verifying delineation's for programmatic general permit projects. Few separate requests for delineations come in which are not associated with an application. Agencies attend site visits associated</p>	<p>Massachusetts: 80-90% are desktop jurisdictional determinations. New Hampshire: Most delineations are verified by project manager evaluation of the datasheets submitted with the applications. Vermont: For individual permits and some programmatic general permit activities, the determination is made from the delineation datasheets. Rhode Island: For wetland delineations, the Corps mainly relies on the state to verify programmatic general permit projects. For individual permits, consultants generally submit Corps datasheets with their applications, which we verify either in the office, or with a site visit if the data looks questionable. Connecticut: Site visits are therefore not conducted for all projects. If data sheets have been provided, the district project manager will use this information, if it is adequate, to make a desktop determination. If necessary, a site visit would be made to refine questionable data. If a "mom and pop" type applicant made a request for a jurisdictional determination, the project managers would probably conduct a site visit to verify jurisdictional areas. The project managers make the jurisdictional determination based on the minimum amount of work needed to determine that the delineation is adequate and conforms to the 1987 Federal manual.</p>

**Table B.3.1-7 – Site Visits: Field Implementation**

District	Pre Application Meetings	Site Visits	Desktop Determinations
		<p>with pre-application consultations on individual permit projects. Site visits solely to verify jurisdiction are rare. Connecticut: State project managers visit all sites so project managers may call their state counterpart to verify site information. Project managers do not conduct site visits unless necessary. If necessary agencies do attend site visits. This can be difficult to orchestrate but is very helpful when it is done.</p>	
St. Paul	<p>Pre-application meetings are used for large complex and/or controversial projects, time permitting.</p>	<p>The district does not conduct site visits on every application received. Because Wisconsin has good information, project managers need only go out on complex projects or if there is a question on the delineation submitted with the application. In general, project managers conduct site visits on approximately 20% of their projects. Field office project managers conduct site visits more frequently than project managers working in the district office because of logistics (the field offices are closer to the regulated counties) and because 3D aerial infrared photos and similar tools are readily available. However, all project managers can conduct site visits as often as is necessary. In Minnesota, site visits may be conducted on a project by project basis with the Board of Water and Soil Resources (BWSR), Local Government Units (LGU), local Technical Evaluation Panel (TEP), Soil Conservation District. Other agencies sometimes attend site visits. In Minnesota, U.S. FWS and U.S. EPA occasionally attend site visits.</p>	<p>In Minnesota, The Corps conducts desktop determinations for impacts that are very minor (e.g. culverts). For counties within in the St. Paul metropolitan area and nearby counties, aerial photography and other resources are available for desktop determinations and site visits are not conducted as routinely.</p>

**Table B.3.1-8. Public Notice Procedures: Field Implementation**

District	Standard Permit	Section 10 Letters of Permission	Section 404 Letters of Permission
Portland	<p>Mailing lists are used and are based on counties. In cooperation with the coastal zone management and water quality certification agencies, the Corps attaches a form prepared by these agencies soliciting comments for water quality and coastal zone issues as well as the public interest review factors being considered by the Corps. Many individual permit public notices are put on the web site if possible. Informational meetings are held on occasion to answer questions and provide information if necessary.</p>	<p>Letters of permission are used for small docks, placement of pilings or similar Section 10 activities that should not encounter opposition from the resource agencies. With the listing of Endangered Species Act fish species, the 15-day review process can break down because we may need to consult with NMFS.</p>	<p>None.</p>
Fort Worth	<p>Approximately 2.5 public notices are issued each month at a cost of \$375.00 per notice. We are working developing a public notice page on our website.</p>	<p>Yes.</p>	<p>Section 404 letters of permission authorize activities at certain reservoirs and Federal and state sponsored projects (LOP-1) and excavation activities (LOP-2). LOP-2 was most often used to authorize excavation activities that could not be authorized by other NWP's (prior to the Tulloch decision reversal, but LOP-2 can be used for many other cases as well). These letters of permission do not have expiration dates.</p>
Sacramento	<p>Uses mailing list and Internet to post public notices. Rarely holds hearings, but may do so in Colorado if an Environmental Impact Statement is involved. Approximately 4 public notices are issued per month.</p>	<p>There are many Section 10 letters of permission in the Delta region. Some in other states.</p>	<p>In 1996, the district developed a Section 404 letter of permission because there were a substantial number of projects authorized by the 1991 version of nationwide permit 26 (i.e., activities impacting more than 3 acres) and the district wanted to reauthorize these projects through an expedited permit process (less than 1 acre in Colorado). Developing letters of permission in Utah and Nevada.</p>
Norfolk	<p>The district uses the web to solicit public comments on individual permits and ASP-18 projects (the public notices are joint public notices with the Department of Environmental Quality; Virginia Marine Resources Commission continues to publish paper notices). Adjacent property owners</p>	<p>If a letter of permission is used to authorize a project, adjacent property owners are notified.</p>	

	and those individuals that request it continue to receive paper public notices.		
St. Paul	<p>The district is developing a public notice to solicit comments on the use of the Internet for public notices now. They would continue to provide hard copies to those individuals who wish to continue to receive them.</p> <p>Requests for public hearings are not made very often. In some instances if a request is made, the project manager and/or section chief may meet with the requestor to discuss the issues and resolve them without conducting a hearing.</p> <p>Special meetings with the requestor may be conducted.</p> <p>Usually 5 or 6 public notices per month per state.</p>	Yes. Use the Internet to solicit comments from agencies and the public. Agencies are notified via e-mail that projects are on the website for review.	
Jacksonville	District uses both mailing lists and the internet to advertise public notices and solicit public comment.	Most of the letters of permission are used to authorize Section 10 activities. The district coordinates letter of permission activities with adjacent property owners.	The district uses Section 404 letters of permission for activities impacting up to 0.20 acre.
Omaha	<p>Colorado: Since May 1999, the field office has been using the Internet (in addition to mailings) to solicit comments on public notices. Mailings have been reduced from 100 paper copies to 35. The program manager has not identified any difference in the number of comments received based on the change from paper mailings. If appropriate public hearings may be held however, the field office tries to address public comments through informal meetings.</p> <p>South Dakota: Several mailing lists by geographic waterway, state lists and Missouri River. Internet is not used yet. Few public hearings are requested. Informal meetings may be used to address issues. 25-30 public notices issued per year. Cost approx. \$80.00 per notice (\$2400 per year).</p> <p>Nebraska: The field offices will begin using the Internet to solicit comments on public notices. Mailing lists are currently used and are updated every 2 years. Requests for public hearings are seldom and informal public meetings may be held for complex and/or controversial projects. On average there are 4 to 5 public notices issued per month each costing approximately \$80.00.</p> <p>Montana: Mailing lists are used to solicit comments. The Internet is not used yet. No hearings were requested in the last year.</p>		No Section 404 letters of permission.
New England	Interagency meetings used to discuss standard permits and Category 2 programmatic general permit activities.		

### **B.3.2 Summary of Agency Views on the Corps Regulatory Program (Specifically the Nationwide Permits and their procedures)**

The following views were gathered through informal telephone conversations.

#### **U.S. Environmental Protection Agency**

The IWR interviewed seven U.S. EPA regional field offices to discuss implementation of the nationwide permit program and to gather U.S. EPA views on the regulatory permit process as a whole as it is conducted within the seven case study districts that use nationwide permits.

For the most part U.S. EPA regional offices indicate that while all nationwide permit preconstruction notifications are reviewed, written comments are provided infrequently (e.g. between 1-10% of preconstruction notifications reviewed). One office (Region 5) indicated that there are internal procedures used to screen preconstruction notifications and public notices.

A majority of the U.S. EPA regional office time is spent reviewing public notices and providing comments on activities being reviewed under the individual permit process.

Some regional offices indicated that the five days allowed to notify the Corps that substantive comments would be provided is insufficient, especially for complex projects. However, most offices indicate that if a concern is presented to the Corps after the close of the comment period, more often than not, the Corps will accept it and address it, particularly if other state and local agencies provided similar comments. One office suggested that regardless of the amount of time provided, not all preconstruction notifications would result in a written response.

One office indicated that they have no way of knowing whether or not their comments or recommendations are addressed and estimates that their comments are addressed on less than one-half of those permits for which they provide comments.

Most U.S. EPA regional offices indicated that if a concern is raised regarding compensatory mitigation requirement, it often depends on the project manager as to whether or not the comment is addressed.

Almost all of the U.S. EPA regional offices indicated that limited staffing and resources require that they prioritize their work. As a result, site visits, pre-application meetings, interagency meetings, and written comments are conducted primarily for individual permit activities.

#### **U.S. Fish and Wildlife Service**

IWR interviewed at least one regional field office responsible for permitting in each of the 7 districts that use nationwide permits (with the exception of Omaha District).

Most if not all regional offices interviewed indicated that federal and state endangered species database information is available and that project managers are using this information to screen proposed activities. Some applicants discuss proposed activities with the Service prior to submitting an application to the Corps.

Several field offices stated that biological assessments and opinions are rarely prepared for nationwide permit activities. Most activities involving threatened and endangered species or critical habitat are evaluated as individual permits, but later may be authorized by a nationwide permit and the biological opinion will be included as a special condition.

Most regional field offices indicate that the pre-construction notification time frames are sufficient. However, due to workload, written comments are not always provided for nationwide permit pre-construction notification activities. Often the service is unable to attend site visits or pre-application meetings for nationwide permit activities.

Regional conditioning and activity specific regional conditions have improved the protection of threatened and endangered species.

Some offices indicated that their concerns are addressed in the pre-construction notification process but this depends on the district and project manager. Other offices indicate that the Corps is very responsive to service comments and recommendations and is aggressive and comprehensive in their review of projects with the potential involvement of endangered species.

Unfortunately neither the Corps nor the U.S. FWS track how often projects are modified to avoid endangered species.

At least one office indicated that non-reporting nationwide permit activities do not appear to present a problem for endangered species. But at least two field offices indicate that scope of analysis is an issue (i.e. for the Jacksonville and Norfolk districts).

### **National Marine Fisheries Service**

IWR attempted to interview all Federal resources agencies. However, only three regional offices provided information (only five of the seven offices that use nationwide permits have NMFS resources in their respective areas).

In Florida, essential fish habitat and protected species issues are addressed through regional conditions, therefore, NMFS spends little time reviewing preconstruction notifications. NMFS may attend pre-application meetings or site visits for standard permits only and all public notices are reviewed. Activities affecting submerged aquatic vegetation have resulted in construction practices and design requirements to protect these areas. In addition, state and local regulatory agencies provide additional protection for resources that NMFS is responsible for (e.g., Norfolk, Virginia Marine Resources Commission protects tidal waters)

### **State Historic Preservation Officer**

Information on historic properties and cultural resources is shared with the Corps to facilitate screening and review of proposed activities. Many SHPOs do not provide written comments on preconstruction notifications and most concentrate their efforts on individual permits. SHPO offices rarely attend site visits, interagency meetings, or pre-application meetings for nationwide permits.

### **Discussion and summary**

All offices indicate that preconstruction notifications are faxed, mailed or sent electronically. Both the U.S. EPA and U.S. FWS regional field offices expressed concern with permit and mitigation compliance and follow up, but few had conducted studies to support assumptions. NMFS and the SHPO did not comment specifically on this issue. Many of the offices interviewed indicated that the volume of work prevents them from actively engaging in the nationwide permit review process and instead the agencies focus on individual permits and programmatic issues. In addition often the enforcement responsibility is usually handled in U.S. EPA by a separate division or branch.

### **B.4 Impact and Compensatory Mitigation Data Entry**

Estimation of cumulative impacts requires many assumptions about permit analysis, permit implementation, and data entry in the regulatory database, among other items. The PEIS looked at data entry problems regarding (1) impacts and (2) compensatory mitigation

#### **B.4.1 Summary**

Pre-application avoidance and minimization is not captured in district databases

Practice for reporting temporary impact and mitigation varies among and within districts.

- Districts typically consider all utility line impacts as temporary, which are not to be entered. However, data-entry practice regarding temporary impacts may be inconsistent among staff within the district. Corps Headquarters guidance states that only permanent impacts are to be entered in the regulatory database.
- Staff may enter temporary impacts (including utility line impacts), and in order to accomplish “no net loss” in the database, enter that same quantity as mitigation in their database, even though the permit does not include compensatory mitigation conditions.
- In some districts, out-of-kind conversion of forested wetlands to emergent wetlands is not an issue in terms of exchange of wetland class and function since utility lines are not proposed through forested wetlands. Some districts require mitigation for conversion of palustrine forested wetlands to palustrine emergent or scrub shrub wetlands associated with utility line projects.

Some regulators do not enter preservation mitigation in the regulatory database.

Entry of compensatory mitigation provided by cash donations also can be a problem. This type of mitigation has been entered three different ways into the regulatory database: (1) dollar amounts rather than acres; (2) acreage impact (i.e., replacement acres assumed to be equal to wetland impact acres); and (3) no entry if additional to other compensatory mitigation acreage.

All districts enter mitigation required by permit condition. Most districts do not enter additional mitigation required by other agencies. Some districts may not enter mitigation offered by the applicant, but not required by the Corps.

Corps permit authorization prior to state decision may result in over tabulation of net impacts if the state subsequently modifies or denies the project. The over-tabulation of net impacts would occur if mitigation was not required by the Corps and thus not entered in the Corps database. Table B.4.1-1 identifies types of inconsistency between the regulatory database and permit file records and how they may contribute to overestimating or underestimating impacts and compensatory mitigation.

#### **B.4.2 Impact Data Entry and Frequency of Discrepancy**

Sources of discrepancy or inconsistency were identified during the evaluation of a sample of nationwide permits and RAMS (or other reporting system) data. A discrepancy doesn't necessarily mean that the regulatory database record is incorrect, or that many of the records sampled were incorrect. However, some of these discrepancies could lead to misinterpretation of data tabulations and greater uncertainty about the validity of the entire database.

The following review focuses on discrepancies associated with impact quantity and resource type permitted as reported in the regulatory database (in either the OCE or the nationwide permit data fields in RAMS).

Three hundred thirteen nationwide permits issued in FY 1998 were randomly sampled in five Corps districts, and permit records were compared to the authorized impact data recorded in the regulatory database. Two other case study districts were not included in this estimation of inconsistencies: one district sample was small and not randomly sampled, and a majority of the files in the other district sample were scanned files and were incomplete.

From this sample, the PEIS estimated the percentage of permits with information in the permit files that call the reported impact quantity into question. The random samples represented differing portions of nationwide permits issued by the five districts. Appendix B.2 discusses the sampling design. The percentage of discrepancies was adjusted to take into account the variation in number of nationwide permits issued and sampled among the five Corps districts.

**Table B.4.1-1. Impact and Compensatory Mitigation Data Entry and Contribution to Estimation of No Net Loss.** Discrepancies generally expected to contribute to an overestimate and underestimate of wetland impacts or mitigation are noted as (+) and (-), respectively. If the error may result in either an overestimate or underestimate, it is noted as (+/-).

Source of Error or Inconsistency in tabulation of impacts		Impacts Reported In RAMS or other database (by 1997 RAMS definition fill, flood, excavate, drain)	Mitigation reported in RAMS or other database	Specific Nationwide Permit Effects and Comments
Human error		Typographical error (+/-) Rounding differences (+/-) Temporary impacts entered (+) Unregulated excavation impacts entered (+) Linear feet (LF) impact mis-entered as acres (same quantity) (+)* Permanent impacts indicated in permit file, but not database (-)	Typographical error (+/-) Rounding differences (+/-) Temporary impacts restored entered in mitigation field to reflect no loss LF mitigation mis-entered acres (same quantity) (+) Mitigation (all or partial) for permanent impacts indicated in permit file, but not database (-)	NWP 27 activities are not in themselves mitigation NWP 12 involves temporary impacts and conversion of wetland type Section 404 impacts only resulting in fill, flooding, draining (excavation rule partially in effect in FY98).
Measurement Inconsistency		Linear feet or cubic yards in file and acres in RAMS, especially if minor fill with bulkhead or shoreline erosion or dredging	LF converted to acres for RAMs (+/-)	
No data (either in file or database)		NWP used indicates Section 404 impacts, e.g., NWP 26 (-)	No way of knowing if impacts compensated .	NWP 3 impacts often very minor for repair rehab of existing structure and "new" impacts difficult to ascertain. Section 404 impacts only resulting in fill, flooding, draining (excavation rule partially in effect in FY98).
Incomplete data in permit records	Lacks Verification Letter **	Temporary impacts (+) Permanent impacts	Method for accomplishing mitigation (e.g. preservation acres may not be entered in RAMS)	
	Incomplete impact description in file***	Permanent and/or temporary impact not clearly identified (+/-)	Some mitigation included in application as part of project not entered in RAMS because not required as special condition (-)	NWP 12 impacts entered as mitigation to "zero out" impacts in database
Post-permit issuance	Applicant actions	Applicant may not construct project (+) Impact may be less than projected (+) Impact may be greater than authorized (-) (however this would be a violation)	Mitigation project not be constructed (+) Mitigation constructed not compliant with permit conditions (+). Mitigation not successful (+) Mitigation results in greater acres than designed (-)	
	State or local program effects	Impact denied or modified by state (State 401/wetland permit) after Corps decision (+)	Mitigation added or modified by state programs (state does not issue identical project after Corps finalizes its action (-)	MN, WI, CA, FL examples of state 401 or wetland permit decision not made concurrently with Corps decision.

\* Unless query specifies system resource, this conversion of LF to acres may overestimate acres.

\*\* Verification letters (VL) were missing from some permit files. It was not ascertained whether a VL was never prepared (i.e., information recorded in the database, but no follow up letter written ), VL not required because activity non-reporting and meets terms and conditions, a VL was written, but no copy made for the file, or a VL was written but removed from the file for copying (e.g. for a Freedom of Information Act request) and not found in file during IWR review. In some cases only a general project description included in VL in the file, and did not specify actual impacts involved.

\*\*\* Pertinent information, e.g., mitigation plans, monitoring reports, site visit information, application can be missing from the permit files or information is not clearly specified.

Approximately 20 % of the 313 permit file records examined lacked impact information (e.g. precise impact size not specified in the verification letter) sufficient to compare with the impact data recorded in the database.

The following observations are based on those permits (246 out of 313) for which some comparison could be made. It should be noted that this sample represents a small population of districts (5) and a small sample of the total number of authorizations. As such, the results are meant only to be illustrative of the shortcomings of data entry and file management. It should be noted that Corps district personnel were not queried about specific permit file records. That is, this examination is based solely on permit file and database review. Further these results address numbers of permits with discrepancies and not magnitude of acres or linear feet involved.

About 39% of the 246 authorizations for which comparisons were made had some discrepancy between the impact data in the permit file and the database. These discrepancies were a mix of things including inaccurate data entry (e.g., entering wetland impacts in the database when the file indicated that only other waters were impacted, not entering linear-foot impacts, or entering the wrong numbers for impacts). The following observations discuss the discrepancies.

- Some inconsistencies were found between the permit file record and only one of the two impact entry fields in the Corps database (i.e., the OCE data fields or the nationwide permit impact fields). Many of these discrepancies, for example, were associated with linear-foot stream impacts that were not entered, or were incorrectly entered in the nationwide permit impact field.
- Many discrepancies may be a function of incompleteness of the permit files that were provided for review. Some instances where file review indicated impacts, but fewer or no impacts were entered in the database, may be attributable to information missing from the file at the time of review (e.g., modifications subsequent to permit issuance) by the IWR.
- The most predominant nationwide permits included in the population sample were nationwide permits 3, 12, 13, and 14. Many of these permits affect other waters of the United States. As such, the magnitude of impacts may tend to the smaller end of the quantity spectrum, especially for wetlands. Nationwide permit 26 was a relatively small portion of the subsample of nationwide permits with discrepancies.
- For nationwide permits, a greater percentage of the permit file records indicated less wetland impact than the database entry than the converse (permit file records that indicated more wetland impact than the database entry). Frequently this appears to be result of misentry of linear feet stream impacts in the permit file record as acreage of wetland impacts in the database.
- Approximately 10 % of the permit authorizations with discrepancies were temporary impacts entered in the database (and thus interpreted as permanent impacts). Temporary impacts may affect tabulation (and compensatory mitigation) acres or linear feet. Some activities that may be authorized by nationwide permits can involve temporary impacts (e.g., nationwide permits 12

and 33). These nationwide permits include terms that require these impacts to be restored to pre-project conditions or for temporary fill to be removed. Often, these conditions are emphasized in the verification letter to reinforce these requirements. Some project managers may not report temporary impacts in RAMS at all (or they may enter “0”), which is not an error. In other cases, project managers enter temporary impacts in both the impact authorized fields and in the mitigation fields thereby “zeroing out” the impacts. In a third example, temporary impacts associated with utility line activities (nationwide permit 12) may involve a conversion of wetland type (e.g., forested to emergent). Project managers may not enter these impact acres in RAMS, they may enter the conversion in the impact fields, or they may enter the acres converted as impacts and mitigation. If the latter two are done, RAMS may overestimate the loss associated with these activities (conversion does not equal loss).

- Approximately 9% of discrepancies appear to be associated with rounding differences.

### B.4.3 Compensatory Mitigation Data Entry Discrepancies

Similar to the previous section (B.4.2) in which impact data were examined, mitigation data in permit records were examined in five Corps districts and compared to Corps database entries. From this sample, the PEIS estimated the percentage of permits with information in the permit files that call the reported compensatory mitigation into question. The random samples represented differing portions of nationwide permits issued by the five districts. Appendix B.2 discusses the sampling design. The percentage of discrepancies was adjusted to take into account the variation in number of nationwide permits issued and sampled among the five Corps districts.

The following discussion compares two groups of nationwide permits sampled: 1) the entire sample (313 nationwide permits), and 2) nationwide permit sample involving compensatory mitigation (95 nationwide permits). All but one nationwide permit authorization associated with the compensatory mitigation subsample was for Section 404 impacts. Nationwide permit 26 comprised about half of the compensatory mitigation subsample. This comparison uses a larger sample, all (313), than the comparison of impact data (246 files) discussed in Appendix B.4.2. Files placed in the unknown category for identifying impact discrepancies did not appear to have occasion for compensatory mitigation discrepancies. That is, presence or lack of mitigation discrepancy was easier to identify for many files than impact discrepancy.

- **Nature of Discrepancy.** Discrepancies include differences in mitigation quantity, mitigation option (e.g., by permittee or bank), or aquatic resource type (streams, wetlands, or other waters) between the permit file records and the database.
- **Entire sample** (313 permits). Discrepancies were found in approximately 11% of the files. However, the fact that some files did not have information regarding specification of option for or amount of compensatory mitigation does not necessarily mean that the database is incorrect.
- **Authorized permits involving compensatory mitigation.** This subsample comprises about 30% (or 95) of the files reviewed. Differences were found in 57% of this nationwide permit

subsample. Many differences were very small (e.g., due to rounding). Much of the difference between permit files and the database was associated with temporary impacts. For temporary impacts, while the permit was not conditioned to require compensatory mitigation, the compensatory mitigation data entry indicated so, thus “zeroing out” the impacts to achieve no net loss for the particular permit.

- **Underestimation or overestimation of compensatory mitigation.** About 6% of the total sample (313) exhibited either an apparent overestimate or underestimate of compensatory mitigation (excluding compensation for temporary impacts) for waters of the U.S. as per regulatory database entries. Overestimation or underestimation of compensation for impacts to wetlands appeared to be the case for almost 4% of the total sample, excluding cases of compensation for temporary impacts). For the nationwide permits requiring compensatory mitigation, about 31 % either overestimated or underestimated compensatory mitigation (20% for wetlands only). For all four comparisons described above, the number of permits overestimated was roughly similar to those underestimated.
- There are some actions associated with the authorized activities that are beneficial to the aquatic environment that were not captured in the database. For example, mitigation involving upland buffers or preservation, included as a special condition, is not always entered into the database. In some cases, it appeared that state or local permitting agency required mitigation subsequent to the Corps permit decision and in excess of what was required by the Corps.

## **B.5 Agency or other environmental information reviewed**

### **Jacksonville**

Standard Manatee Construction Conditions March 27, 1995  
GIS – Resource At Risk Report  
Field Level Agreement between Jacksonville District and U.S. EPA Region 4  
Florida Department of Environmental Protection Interagency Workgroup Meeting CIA Information Needs  
2/20/2000  
SHPO FY 1998 data query  
State Programmatic General Permit (SPGP-III-R1)  
Office of Program Policy Analysis and Government Accountability (OPPAGA) Policy Review: Wetland Mitigation  
(DEP and WMD Report No. 99-40 March 2000)  
1996 Water Quality Certification and Coastal Zone Management Regional Conditions

### **Fort Worth**

“Handy Tip Sheet for Your Wall Critical Cultural Resource Areas” prepared by district archaeologist.  
Texas Historical Commission 1998 Project Review Database provided by Bill Martin  
Mitigation and the Section 404 Regulatory Program March 6, 1998  
Compensatory Mitigation by In-Lieu Fee in the Fort Worth District March 25, 1999  
Mitigation Information Southwest Division (SWD) January 2000 (mitigation for all permits)  
Corps Headquarters Wetland Impact Acreage Evaluation FY 1993 (dated 22 March 1994).  
Recommendations for Department of the Army Permit Submittals April 6, 1998  
Alternative Analysis Guidance February 1999  
Nationwide Permit 21 Guidance October 6, 1999  
Regional and State Program General Permits and Letter of Permission Procedures in the Fort Worth District April  
20, 1999.  
An Analysis of Mitigation Recommendations on Water Resource Development Projects. July 1990. US FWS  
Ecological Services Arlington, Texas  
U.S. FWS database query, Corps permits provided by U.S. FWS, 3 actions in IWR random sample  
Texas Natural Resources Conservation Commission Water Quality Certification Letter for 1996 NWP's.  
Record of Decision Regional EIS Trinity River and Tributaries April 1988  
Joint Permit Application

### **Norfolk**

Information Requirements that will facilitate Corps review of Nationwide, Regional and Individual permit  
applications. Letter, 17 November 1998  
Pre-construction Conference on Complex Projects. 31 December 1991  
Norfolk District Regulatory Branch Wetland Mitigation Policy (ratios), 1991  
Interim Nationwide Permit Mitigation Guidance (Trust Fund mitigation), 25 November 1996  
Permit Conditions and Performance Criteria, 16 November 1995  
Guidance on Soil Bioengineering and Stream Restoration, 25 March 1999  
District Internal PCN procedures (1996 NWP's)  
PCN Procedures for Norfolk District (public distribution)  
Memorandum: PCN Findings  
Sample Letter of verification  
Certificate of Compliance  
Virginia State 401 Certification letter, 10 February 1997  
NWP 26 Guidance, 18 October 1999  
Guidance on the Evaluation of large Scale Development Projects, 2 June 1999  
(Draft) Management Recommendations for Utility Corridors Through Forested Wetlands. 1998  
Use of NWP 14 and 26 in residential, commercial and mixed-use subdivision. Letter 24 March 94  
Regulation of the removal Beaverdams. 20 September 1995.  
Use of NWP 3 on old Disposal sites. Letter, 31 July 1997.  
Draft Isolated Waters Regulatory Guidance Letter, 29 January 1993.

NVRS Guidance to Determine Upstream Limits of Waters of the U.S., 3 July 1997.  
Jurisdiction in Artificial Lakes and Ponds, Letter: 9 September 1999.  
Cultural Resources Procedures and Branch Guidance, 2 June 1994.  
Branch Guidance on the application of the Endangered Species Act (ESA) to the Regulatory Program, 23 April 1993.  
SLOPE between Norfolk District, FWS (Gloucester) for Implementing Parts II/IV of CWA 404(Q) MOA and Review of project to Insure Compliance with Section 7 of ESA, 13 February 1998  
Reminder of Initiating Formal Section 7 Consultation (Obtaining the best scientific and commercial information prior to initiating formal Section 7), 28 September 1993.  
Endangered Species Act Coordination, 20 August 1994.  
Virginia Department of Transportation Standard Operating Procedures  
Procedures for use of NWP 23 for FHWA categorical exclusion projects. 6 June 1992.  
NWP 3, NWP 18, Exemptions, landclearing, emergency permitting, Letters of 31 July 1995 and 11 May 1993  
Programmatic Agreement between Norfolk District, ACHP, and VSHOP regarding coordination on Section 106 issues. 5 February 1995  
SLOPE between Norfolk District, NRCS, EPA, FWS on implementation of Agricultural MOA. 16 January 1995.  
Field Level MOA between Norfolk District and EPA (Region III) on CWA enforcement procedures in certain counties in Virginia. 22 June 1993.  
Agreement between Norfolk District and VA Department of conservation and Recreation for sharing of information on the location of Threatened and Endangered Species. 23 July 1990.  
Guidance for Evaluating Piers and Dredging Projects, 22 October 1997.  
Overdepth Dredging and Permitted Depth, 29 April 1998.  
Guidance on Implementing Corps/EPA Memorandum to the Field concerning Application of Best Management Practices to Mechanical Silvicultural Site Preparation Activities for Establishment of Pine Plantations in the Southeast.  
Statement of findings for LOP-1, RP-15, 17, 22, 24, 40  
Endangered Species Notification (map identifying ES along rivers and tributaries in VA) August 1993  
Elevation of Unresolved Policy Issues between Norfolk District and U.S. FWS related to the ESA August 1996  
MOU with the Virginia Department of Conservation and Recreation (locations of federally listed threatened, endangered or candidate species occurring in the state.)  
Joint Permit Application  
Regional Conditions Decision Document December 1991  
Regulatory Standard Operating Procedure (SOP) Database  
Pre-construction conferences on Complex Projects December 1991  
MOU between The Nature Conservancy and Corps for Virginia Wetlands Restoration Trust Fund  
Branch Guidance for Wetlands Compensation Permit Conditions and Performance Criteria  
Evaluation of the Effectiveness of within Watershed Compensation in Response to Permitted Activities through the Norfolk District's Section 404 Regulatory Program (January 31, 2000). Harold Jones and Milton Boyd  
Virginia Wetlands Management Strategy Citizens Wetland Advisory Committee Report (Updated November 30, 1999)

## **Sacramento**

April 1998 Data All Permits by State Authorizations – Acre, Acres Impacted, Acres Mitigated.  
Regulatory Program Team Members and Points of Contact  
Regulatory Program Applicant Information  
Water Quality Certification for NWPs for California (February 1997)  
U.S. EPA water quality certification for NWPs in Indian Country (1997)  
Pre-application Meeting Recommendations  
NWP PCN Information (California, Colorado, Nevada)  
Section 404 LOP 1999  
Regional LOP Procedures (CO, UT) (1995)  
Habitat Mitigation and Monitoring Proposal Guidelines (1996)  
Wetland Mitigation Areas Sacramento and Placer County September 1998.  
Wetland Losses within Northern California from Projects Authorized under NWP 26, October 1992

Draft Letter of Agreement between Corps and The National Fish and Wildlife Foundation Concerning the  
Establishment and Operation of the South Pacific Wetlands Conservation Account

List of Regional General Permits

Utah State Historical Society data query FY 98 permits

U.S. FWS 1998 Comment letters

Assessing the Ecological Integrity of Wetlands: Section 404 Compensatory Mitigation Compliance Study, (Kelly D. Starinchak, Utah Div Wildlife Resources, July 2000; study focuses on northern Utah near Salt Lake City)

### **Portland**

Oregon Division of State Lands Mitigation Policy (Freshwater wetland compensatory mitigation)

Gold Mining in WOUS Special Public Notice 1996

Joint Permit Application

Emergency Situation Permitting Procedures

Water quality certification and Coastal Zone Management regional conditions 1997

Project Manager County Assignments

Regional Permits

Public Notice mailing list

Wetland Delineation Prioritization and Procedure Processes (November 1999)

1997 Regional Conditions Water quality certification and Coastal Zone Management

FY 1998 Planning Archaeologist Permit Log

Endangered Species section 7 flow chart

Instructions for querying the ES database

Use of Rip Rap for bank stabilization letter from NMFS April 1999

Corps Headquarters Memo on Endangered Species Compliance

Draft district internal procedures for ESA compliance (October 1998)

City of Woodburn's Local Wetlands Inventory and Assessment (December 1999)

### **St. Paul**

Wisconsin and Minnesota General Permits

District and EPA Region 5 MOA for Enforcement Coordination Procedures (1993)

Joint Permit Application

1997 Minnesota Water Quality Certification for NWP

1991 NWP regional conditions

Indiana Wetland Compensatory Mitigation Inventory: Final Report May 2000

Wisconsin Department of Natural Resources Application for Water Quality Certification

Wisconsin Department of Natural Resources Wetlands Report

Excerpts from 1996 Minnesota Wetland Report

Minnesota Wetland Report 1997/1998 The Minnesota Board of Water and Soil Resources

Section 404 LOPs (Wisconsin, Minnesota, Tribal) and Decision Documents

Decision document for Salvage of Submerged Logs

1992 NWP Regional Conditions

Standard Operating Procedures for mitigation bank siting in Minnesota

### **Omaha**

Draft PGP Flathead Reservation Montana Confederated Salish and Kootenai Tribes of the Flathead Nation

Joint Permit Application

SLOPES for Colorado

Colorado cumulative effects policy letter (June 1999)

Public Notice for Endangered Species process

Programmatic Agreement between Corps and Advisory Council for Historic Preservation, SHPO and Central City

Omaha District Guidance for entering data into RAMS – Multiple Permits for a Single Project (1994)

1996 Regional Conditions for Nebraska and Wyoming

NRCS issues in South Dakota November 12, 1999 Letter to NRCS from Corps

Landowners Guide to Montana Wetlands

Montana MOU with Department of Environmental Quality and Department of Transportation 1998  
Cooperative Agreement between Corps and FHWA and Montana DOT relative to highway construction project review.  
Montana Joint Permit Application  
Wyoming Water Quality Certification determinations  
Draft Programmatic Agreement between Corps, Advisory Council on Historic Preservation and State Historic Preservation Office for processing DA permits  
Draft SLOPES  
Joint Permit Application  
South Dakota EPA 401 certification on reservation lands  
Department of Natural Resources 401 Certification  
South Dakota Regional general permits  
North Dakota regional general permits  
North Dakota Joint Permit Application  
MOU/Agency Coordination Agreements – Emergency Flood Control Storage Program, SCS Mapping Conventions, SHPO,  
SLOPES  
Interagency Team Process Article  
Interagency Team Coordination Meeting Agenda and minutes example  
Missouri River Coordinated Resource Management Program (Local environmental protection goals)  
1997 Supplemental EA for NWP  
Water Quality Certification for NWP  
Effects of Section 404 Permits on Wetlands in North Dakota (article published in US DOI NBS/ Resource publication 200  
Platte River Endangered Species Partnership

### **New England**

Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Massachusetts Programmatic General Permits  
Performance standards and supplemental definitions for use with the 1987 Corps Manual (1995)  
New England District wetland delineation data sheet and supplemental information (draft)  
Checklist for Review of Mitigation Plan  
Mitigation database printout (separate from RAMS)  
Determination of Eligibility Checklist/MFR Category I and II Activity (CT, RI)  
Maine Programmatic General Permit Summary of Screening and Status  
Golf Course of Connecticut projects by name, location, type, holes, acres  
Letter of Agreement between Corps and Narragansett Tribe  
Programmatic General Permit work start notification form  
Dredge Material Management Program Brochure (May 92)  
Highway Methodology Workbook Supplement (September 99)  
The State of our Environment April 2000 (Commonwealth of Massachusetts Executive Office of Environmental Affairs)  
Massachusetts Programmatic General Permit Cumulative Effect Assessment  
New Hampshire Programmatic General Permit Cumulative Effect Assessment 1997  
New Hampshire Programmatic General Permit Facts and Figures 6/1/92 – 3/10/97  
New Hampshire Programmatic General Permit EA and SOF incorporating Section 404 Mitigation MOA  
“Compensatory Wetland Mitigation in Massachusetts” by University of Massachusetts

## **B.6 Corps field staff interviewed**

**Fort Worth District:** Wayne Lea, Presley Hatcher, Steve Swihart, David Martin, and David Madden

**Jacksonville District:** John Hall, Bob Barron, Ron Silver, Osvaldo Collazo, Don Borda, Bert Heimer, Stuart Santos

**New England District:** Chris Godfrey, Bill Lawless, Dave Killoy, Bob Desista, Mike Elliott, Joanne Barry, Ruth Ladd, Paul Howard, Karen Adams

**Norfolk District:** Bruce Williams, Nick Konchuba, Bob Hume, Harold Nelson, Alice Allen-Grimes, Audrey Cotnoir, Steve Martin, Adreian Jennings, Craig Jones

**Omaha District:** Mike Rabbe, Tim Carey, Matt Bilodeau, Steve Naylor, Allen Steinle, Jim Winters, Cheryl Goldsberry, Kathy Iske

**Portland District:** Ron Marg, Judy Linton, Teena Monical, Brian Lightcap, Robert Rose, Jim Goudzwaard, and Mary Headley

**Sacramento District:** Tom Coe, Nancy Haley, Mike Finan, Larry Vinzant, Kevin Roukey, Nancy Kang, Pattie Johnson, Chris Mayo, Brooks Carter, Grady McNure, Mike Schwinn, Ken Jacobson, and Make Claffey.

**St. Paul District:** Ralph Augustin, Denise Blackwell-Kraft, Julett Denton, Mick Weberg, Joe Yanta, and Steve Eggers

**B.7 Other Agency Staff Interviewed**

<b>Agency</b>	<b>POC Name</b>	<b>District</b>
<b>JACKSONVILLE</b>		
SHPO	Laura Kammerer	Jacksonville
USFWS Region 4	Marilyn Stoll, Jane Tutton, Don Palmer	Jacksonville
EPA Region 4	Haynes Johnson	Jacksonville
NMFS	Essential Fish Habitat: Mark Thompson	Jacksonville
<b>FORT WORTH</b>		
USFWS (Arlington TX)	Tom Cloud, Mike Armstrong	Fort Worth
EPA Region 6	Norm Sears	Fort Worth
SHPO	Bill Martin	Fort Worth
<b>ST PAUL</b>		
EPA Region 5	Tom Glatzel, Kathy Garra (WI & IN), Amy Nerborn (MN)	St. Paul
USFWS Region 3	Ron Spry, Russ Peterson, Phil Delphey, Paul Burke, Nick Rowse	St. Paul
Minnesota Pollution Control Agency	Larry Zedon	St. Paul
Minnesota Board of Water and Soil Resources	John Jaschke	St. Paul
Wisconsin Department of Natural Resources	Scott Hausmann	St. Paul
<b>SACRAMENTO</b>		
EPA Region 8	Dave Ruitter, Elizabeth Goldman	Sacramento
Colorado SHPO	Jim Greene	Sacramento
USFWS - Utah	Bob Freeman	Sacramento
<b>NORFOLK</b>		
USFWS	William Hester	Norfolk
USFWS	Kim Marbain	Sacramento
NMFS	Rod Schwarm	Sacramento
EPA Region 3	Peter Stokely	Sacramento
<b>PORTLAND</b>		
NMFS	Ben Meyers, Mike Tehan	Portland
EPA Region	Yvonne Vallette	Portland
USFWS (Portland field office)	Bianca Streif	Portland
SHPO	Dr. Leland Gilson, Archeologist	Portland
<b>OMAHA</b>		
Colorado SHPO	Jim Greene	Omaha
EPA Region 7 & 8	Dave Ruitter, Tom Taylor, Jeannette Schafer	Omaha

**B.8. Corps District Compensatory Mitigation Policy or Guidance.**

This is based on a Corps Headquarters survey of Corps district offices, January 2000. This information has not been verified and some districts may utilize state or other guidance.

District	Guidance		Notes/title of guidance or information document
	Yes	No	
<i>Buffalo</i>		X	Has in-lieu fee mitigation agreement form
<i>Chicago</i>	X		Mitigation Guidelines and Requirements
<i>Detroit</i>	X		Guidance to Applicants for Mitigation
<i>Huntington</i>	-	-	
<i>Louisville</i>	X		<i>Wetland Mitigation Guidelines (for Kentucky, for Indiana)</i>
<i>Nashville</i>		X	
<i>Pittsburgh</i>	-	-	
<i>Memphis</i>		X	
<i>New Orleans</i>	X		Mitigation Guidelines
<i>Rock Island</i>	X		Informal Wetland Mitigation Guidelines
<i>St. Louis</i>		X	
<i>St. Paul</i>	X		<i>Compensatory Mitigation Guidelines (&amp; Wisconsin DNR, Corps, others are drafting mitigation guidelines)</i>
<i>Vicksburg</i>		X	
<i>Baltimore</i>	X		<i>Maryland Compensatory Mitigation Guidance (Interagency)</i>
<i>New England</i>	X		<i>Checklist for Review of Mitigation Plan; Draft Sample Monitoring Report</i>
<i>New York</i>	-	-	
<i>Norfolk</i>	X		<i>Branch Guidance for Wetlands Compensation Permit Conditions &amp; Performance Criteria</i>
<i>Philadelphia</i>		X	
<i>Kansas City</i>		X	
<i>Omaha</i>	X		Information packet for mitigation banking includes <i>Draft Wetland Compensatory Mitigation and Monitoring Plan Guidelines for Omaha District</i>
<i>Portland</i>		X	Uses Oregon Division of State Lands Compensatory Mitigation Requirements
<i>Seattle</i>	X		<i>(Interagency) Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals</i>
<i>Walla Walla</i>	X		Key Elements of Mitigation Plan
<i>Alaska</i>		X	
<i>Honolulu</i>		X	
<i>Charleston</i>	X		Standard Operating Procedures, Compensatory Mitigation
<i>Jacksonville</i>		X	Has Draft Joint State/Federal Mitigation Bank Review Team Process
<i>Mobile</i>		X	
<i>Savannah</i>	X		<i>Draft Stand Operating Procedure – Compensatory Mitigation; Guidelines for the Establishment and Operation of Wetland Mitigation Banks in Georgia</i>
<i>Wilmington</i>			<i>Mitigation Checklists (for Stream Mitigation Planning and Compensatory Mitigation)</i>
<i>Albuquerque</i>		X	
<i>Los Angeles</i>	X		<i>Habitat Mitigation and Monitoring Proposal Guidelines</i>
<i>Sacramento</i>	X		Habitat Mitigation and Monitoring Proposal Guidelines
<i>San Francisco</i>	X		Guidelines for Monitoring Riparian Mitigation Projects
<i>Fort Worth</i>	X		<i>Mitigation and the Section 404 Regulatory Program (including mitigation plan check list)</i>
<i>Galveston</i>		X	Has Draft Guidelines and Procedures for Development and Use of Mitigation Banks
<i>Little Rock</i>		X	
<i>Tulsa</i>		X	