

PART III
QUARTERLY PERMIT DATA SYSTEM (QPDS)
REPORTING AND DEFINITIONS

QPDS

QUARTERLY REGULATORY DATA

A-1. On a quarterly basis, each district regulatory office will provide the information described herein. Use of the Quarterly Permit Data System (QPDS) is mandatory at both District and Division levels and is a critical tool in the Corps management of the Regulatory Program at all levels. Accuracy of the data, consistent with these definitions is of paramount importance in the assessment of district and division workloads. The same action should not be entered more than once in QPDS. For example, if a meeting is held at a project site, it should not be entered as both a site visit and a public information meeting in QPDS. Districts will enter data in QPDS and forward a copy of the quarterly data file to the division office within 10 calendar days of the end of each quarter. Divisions will prepare a consolidated data file and forward copies of the consolidated and each district data file to the Commander, USACE (ATTN: CECW-OR), within 15 calendar days of the end of each quarter.

A-2. Data elements required for input into QPDS, are defined in Section A-3, paragraphs, 1 through 5. Data categories are:

1. Evaluations Workload.
2. Evaluation Days.
3. Other Workload Items.
4. Staffing.
5. Enforcement Workload.

A-3. Data Element Definitions.

1. Evaluation Workload. Paragraphs A-3: 1(a) through 1(h) only apply to individual permit actions (i.e. standard permits, letters of permission (LOP), and denials) completed during the quarter and should not be used to account for general permits [regional general permits (RGPs), programmatic general permits (PGPs), state program general permits (SPGs), or nationwide permits (NWP)]. All permit applications will be date stamped immediately upon receipt and logged into the district database [RAMS field = Date Received (table=dates, column=rcvd); RAMS II field = Date Activity Received"]. All applications will be reviewed to determine the type of permit action and to determine completeness within 15 days of receipt. This review includes a conscious decision by a qualified regulator as to the anticipated type of final action. If an application is incomplete, requests for additional information must be made within the same 15 days. Applications should not be routinely logged in as an individual permit, later withdrawn and reentered as another type of permit.

- (a) "Carryover". QPDS generates by authority (Section 10, 404, 10/404, or 10/103), the number of pending individual permit applications at the beginning of the quarter. These figures will agree with the number reported for "Pending", 1(h) on the previous quarterly report. If errors were made in the previous quarter, corrections will be made in the current quarter using the "Withdrawn", A-3, 1(c) data element.
- (b) "Received". Enter by authority, the number of applications received for evaluation as an individual permit. An application need not be complete to be reported here. Applications that start out as an individual permit (i.e., entered in received category) but, because of project modifications,

etc., are found to qualify for a general permit, will be entered in category A-3, 1(c) as withdrawn and reentered in category A-3: 1(i) or 1(j) as a general permit. However, this category will not be used to initially log in actions that clearly should be reviewed under a general permit (RGPs and NWP).

(c) "Withdrawn". Enter by authority, the number of individual permit applications withdrawn by the applicant or the Corps. This applies to both applications that were considered complete and those that were not. Withdrawal will occur only when: 1) requested by the applicant, 2) there is a conversion from an individual permit to a general permit (NWP, RGP, SPGP or PGP) or no permit required, or 3) there is a clear indication from the applicant that he/she does not intend to take further action. If the applicant responds within 45 days of a written request for information that he/she intends to provide the additional information, the application will not be withdrawn [(33 CFR 325.2(d)(5)]. Any application entered in this category that is resubmitted or reactivated will be considered a new application and entered as "Received". Applications entered in this category are not considered when calculating evaluation times. This category is also to be used to correct errors from the previous quarter (This includes errors in totals due to applications coming in at the last minute, etc.). It is not to be used to report applications that are suspended and then reinstated without significant modifications.

(d) "Standard". Enter, by authority, the number of standard permits issued (i.e., required a public notice). If portions of a project are also authorized by NWP, report each type of NWP used. See paragraph A-3, 1(j).

(e) "LOP". Enter by authority, the number of LOP issued.

(f) "Denials W/P". Enter by authority the number of standard permits denied with prejudice. Denial "with prejudice" occurs when the permit is denied on its merits and the applicant has met all other necessary prerequisites.

(g) "Denials WO/P". Enter by authority the number of standard permits denied without prejudice. Denial "without prejudice" occurs when the permit is denied because the applicant lacks a necessary prerequisite (denial of 401 certification or lack of consistency with the Coastal Zone Management Act).

(h) "Pending". QPDS generates by authority, the number of individual permits in process at the end of the quarter. This figure is calculated using the data from A-3: 1(a) through 1(g). To check your input use the formula: $h = [(a + b) - (c + d + e + f + g)]$.

(i) "Regional". Enter by authority, the number of RGP actions completed, by letter of verification, and the number of actions authorized by PGPs during the quarter. This is not an estimate and includes only those cases where formal contact, via letter, from the Corps has been established with the individual proposing work or the agency administering the PGP. Telephone contacts are not to be included. The issuance of the initial RGP or PGP is not entered.

(j) "NWP". Enter by authority, the number of NWP actions completed, by letter of verification, during the quarter. This is not an estimate and includes only those NWP actions that result in written contact from the Corps with the individual proposing the work. Telephone contacts are not to be included. Per regulation, each type of NWP can only be used once in authorizing a single and complete project. However, two or more different NWPs can be used to authorize portions of a single and complete project. If portions of a project are authorized by more than one type of NWP, report each different type of NWP. Generally each stream crossing (or crossings of other waters of

the U.S.) on linear projects (such as pipelines and highways) is considered as a single and complete project (33 CFR 330.2(j)). If NWP conditions are met in such cases, NWPs can be used and reported for each crossing of waters of the U.S. associated with the linear project. Therefore, if one or more NWPs can be used to authorize a linear project, then each crossing of waters of the U.S. should be reported separately in QPDS.

2. Evaluation Days. Evaluation time (in calendar days) begins from the date an application is accepted as complete [33 CFR 325.1 (d)(9)] until the date the permit, denial, or general permit verification letter is mailed to the applicant. For the purpose of calculating evaluation time on standard permits and LOP, the clock stops only when the unvalidated permit is mailed to the applicant for signature [33 CFR 325.2(a)(7)]. No other action can stop the clock. An applicant's failure to sign or mail back the permit does not affect evaluation time. Withdrawn permits are not included in this calculation. For general permits (RGP, PGP, or NWP), the term "application" includes any request to perform work approved by a general permit. Evaluation time for general permits is calculated from the date the application is complete to the date of the letter of verification. A general permit application is considered completed when all the information required by the predischarge notification (PCN) has been received. If a PCN is not required, then an application is complete when adequate information has been received for the Corps to evaluate the activity.

- (a) "Standard". Enter by authority, the total number of evaluation days for the standard permits entered in A-3, 1(d).
- (b) "LOP". Enter by authority, the total number of evaluation days for the LOPs entered in A-3, 1(e).
- (c) "Denied W/P". Enter by authority, the total number of evaluation days for the permits denied with prejudice entered in A-3, 1(f).
- (d) "Denied WO/P". Enter by authority, the total number of evaluation days for the permits denied without prejudice entered in A-3, 1(g).
- (e) "Regional". Enter by authority, the total number of evaluation days for the RGP verifications entered in A-3, 1(i).
- (f) "NWP". Enter by authority, the total number of evaluation days for the NWP verifications entered in A-3, 1(j).
- (g) "Standard & Denial". Enter by range of processing time (0-60, 61-120, over 120) the number of standard permits issued and denied [A-3: 1(d) + 1(f) + 1(g)].
- (h) "LOP". Enter by range of processing time, the number of LOPs issued [A-3, 1(e)].
- (i) "Regional". Enter by range of processing time, the number of RGP verifications [A-3, 1(i)].
- (j) "Nationwide". Enter by range of processing time, the number of NWP verifications [A-3, 1(j)].
- (k) Primary Cause of Delay. Enter the primary cause of delay for all standard permits with an evaluation time of greater than 120 days. In cases involving more than one reason for delay, districts should make a determination and enter only the reason that was the most significant, chronologically, in contributing to the delay.

- (1) Applicant ("Appl"). Cases where the applicant has delayed evaluation by not providing timely replies to information requests, or has requested a delay.
- (2) 401 Certification ("401 Cert"). Cases where the 401 certification process has delayed a permit decision.
- (3) Coastal Zone Management ("CZM"). Cases where the CZM certification process has delayed a permit decision.
- (4) Historic Properties ("Hist Prop"). Cases where compliance with the National Historic Preservation Act (See Appendix C to 33 CFR 325) has delayed a permit decision.
- (5) Section 404(q) Memorandum of Agreement (MOA) informal delays ("404Q/Inf"). Cases resolved through the informal process at the District or Division level.
- (6) Section 404(q) formal delays ("404Q/Formal"). Cases requiring formal notification or referral (404(q) MOA Part IV).
- (7) Internal Delays ("Internal"). Cases where the cause for delay is a result of something under the control of the Corps but not included in the other categories. A supplemental report explaining the reasons for these delays is required. This category will also include delays related to the Endangered Species Act, until the QPDS report form is modified.
- (8) "Total". QPDS generates the total number of permits decisions delayed. This number should equal the total number of standard & denied permits that took over 120 days to evaluate.

3. Other Workload Items.

- (a) "No Permit Required". Enter the total number of evaluations that result in a determination, by written verification, that there is no Corps jurisdiction or that result in a finding that no permit is required. Telephone contacts are not to be included.
- (b) "Applications Modified". Enter the total number of standard permits issued [A-3, 1(d)] that were substantially modified in order to reduce environmental, or other public interest factor impacts. Modifications can include changes in design, orientation, size and/or location that were made as a result of objections, the 404(b)(1) process, the Section 404 Mitigation MOA, preapplication meetings, etc. This would not include those applications where only minor changes were made that involved minimal effort. Compensatory and/or offsetting mitigation, as required by the sequencing process, is not considered to be a "modification". Multiple modifications to the same application are entered only once.
- (c) "Permit Modified". Enter the total number of previously issued individual permits, which were modified, at the request of a permittee, during the quarter. Modifications, which occur during permit evaluation, are entered in paragraph A-3, 3(b). Multiple modifications of the same permit, at different times, should be entered and reported separately [Reference 33 CFR 325.7(b)].

(d) "Site Visits". Enter the total number of all site visits made during the quarter in connection with permit evaluations or jurisdictional determinations (JDs). Multiple visits to a single site are entered separately. Each site visit must be documented by field notes, memorandums for the record, photographs, etc. This category does not include verified JDs/wetland delineations, preapplication meetings held on site, enforcement or compliance inspections which are entered in paragraph A-3: 3(g), 3(f), and 3(k).

(e) "EIS Pending". Enter the number of regulatory EIS's that are currently being developed with the district as the lead agency. Report each quarter until the final EIS is issued.

(f) "EIS Commented On". Enter the number of EIS's, including cooperating agency EISs, where the Regulatory office provided written comments to other agencies or offices. This includes any EIS's, not just ones requiring regulatory action.

(g) "Jurisdiction Determinations (Office)". Enter the number of JDs made in the office, without recourse to a site visit. This includes verifying wetland delineations, ordinary high water determinations made in association with permit applications and enforcement actions. Determinations must be followed by written documentation. Only enter an application/project in this category once. If both office and field determinations are performed on a project, only the field JD will be reported in paragraph A-3, 3(h).

(h) "Jurisdiction Determinations (Field)". Enter the number of jurisdiction determinations made through a field visit. This includes verification of wetland delineations, ordinary high water determinations made in association with permit applications and enforcement actions. Determinations must be followed by written documentation. Only enter an application/project in this category once. If both office and field determinations are performed on a project, only the field JD will be reported.

(i) "Public Hearings". Enter the number of public hearings, as described in 33 CFR 327 that were held during the quarter.

(j) "Public Information Meetings". Enter the number of public meetings held to publicize the Regulatory Program. This includes participation in workshops, seminars, and meetings on specific permit actions held in lieu of a public hearing. This category does not include routine meetings with applicants, such as preapplication meetings.

(k) "Pre-application Consultations". Enter the number of pre-application consultations. This process may or may not involve other agencies. Telephone inquiries from potential applicants or telephone calls with other agencies are not included. It is possible to have more than one pre-application consultation on a proposed project or enforcement action.

4. Staffing. This section will be used to obtain information on regulatory full time equivalents (FTEs). FTE levels are to be reported quarterly. The numbers reported should be consistent with FORCON numbers.

(a) "FTE Allocated". Enter the number of FTEs allocated by the District Engineer, or his designee, for the fiscal year. This number will include district and field regulatory staff only, and not counsel, planning, or other district elements. This number may or may not change from quarter to quarter, depending on senior management (above regulatory element level) and FORCON adjustments.

(b) "FTE Expended". Enter the number of FTEs actually expended by the regulatory office (district and field regulatory staff only). This number will change from quarter to quarter and will reflect actual staffing levels through the current ~~that~~ quarter; it is cumulative. The annual (5th quarter) report will be the same as the fourth quarters.

5. Enforcement / Compliance Workload.

(a) "Carryover". QPDS generates by authority (Section 10, 404, 10/404, 10/103), the number of unresolved, unauthorized activities (UA) files at the beginning of the quarter. These figures must agree with the numbers entered for "Pending," A-3, 5(j), on the previous quarterly report. If errors were made in the previous quarter, corrections will be made in the current quarter using the "Other Resolution" data element.

(b) "Reported". Enter by authority, the total number of UAs reported or detected.

(c) After-the-Fact ("ATF"). Enter by authority, the number of UAs resolved by acceptance of an ATF permit. The UA files should not be closed before a decision is reached on the ATF application.

(d) Voluntary Restoration ("REST"). Enter by authority, the number of UA files closed after obtaining voluntary restoration, without litigation.

(e) Litigation ("LIT"). Enter by authority, the number of UA cases closed after (1) obtaining a Federal court decision (e.g. consent decree, pre-trial settlement, court order, etc.), and (2) the completion of all required work. Since additional enforcement work will likely be required, do not close the file at the time it is sent to the Department of Justice (DOJ) for consideration of legal action.

(f) Penalty ("PEN"). Enter by authority, the number of UA cases closed after obtaining a penalty pursuant to Section 309 of the Clean Water Act.

(g) Administrative Closure ("ADMIN"). Enter by authority, those UA cases closed after DOJ, U.S. Environmental Protection Agency (USEPA), and/or Corps Office of Counsel (OC) declines to take action. It is not necessary for the regulatory element to inquire on each and every case. Cases may be closed where it is known that DOJ, USEPA, and/or OC have not pursued this type of case in the past [33 CFR 326.5(e)].

(h) Other Resolution ("OTHER"). Enter by authority, the total number of activities that do not result in an enforcement case but require an initial investigation, such as no jurisdiction, work covered by an existing authorization, or discretionary closure by the Corps. This data element is also used to correct any errors made in the previous quarterly report.

(i) "Total". QPDS generates by authority, the number of UA cases resolved at the end of the quarter. This figure is calculated using the data from A-3: 5(a) through 5(h). To check your input use the formula: $i = (c + d + e + f + g + h)$.

(j) "Pending". QPDS generates by authority, the number of UA cases unresolved at the end of the quarter. This figure is calculated using the data from A-3: 5(a) through 5(i). To check your input use the formula: $j = [(a + b) - i]$. Pending files include those submitted to DOJ, USEPA, or OC for legal action that have not been closed.

(k) "UA Site Visits". Enter the total number of on-site visits made in conjunction with a reported or on-going enforcement action. This includes all site visits made in connection with enforcement actions. Multiple visits to a single site are entered separately. Documentation of each visit must be made in writing. This data element does not include verified JDs/wetland delineations, which should be entered in paragraph A-3, 3(g), or 3(h).

(l) "UAs Detected by COE". Enter the number of UAs detected by the Corps. This number will constitute part of the total in data element A-3, 5(b). The number is not limited to those detected by Corps regulatory personnel, but includes all actions detected by any Corps personnel.

(m) "Carryover". QPDS generates the total number of noncompliance (NC) cases unresolved by using data from the previous quarter. If errors were made in the previous quarter corrections will be made using the "Minor Resolution" data element of the current quarter.

(n) Compliance Inspections ("Comp Insp"). Enter the total number of compliance inspections conducted during the quarter. This includes only the inspection of permitted activities. Multiple visits to the same site are entered separately. Documentation of each visit must be made in writing.

(o) Noncompliance ("Noncom"). Enter the total number of inspections that resulted in a determination of NC with the terms and/or conditions of a permit.

(p) "MOD". Enter the total number of NC cases resolved through modification of the permit.

(q) Voluntary Restoration ("Vol Rest"). Enter the total number of NC cases resolved by voluntary restoration, without litigation.

(r) Litigation ("LIT"). Enter the total number NC cases resolved by legal action (e.g. court order, consent decree, fine, etc.) at the DOJ level.

(s) "Penalty". Enter the total number of NC cases resolved through an administrative civil penalty.

(t) Minor Resolution ("Minor"). Enter the total number of NC cases closed based on a determination that neither the OC or DOJ will not pursue the case and the minor nature of the activity does not justify further administrative action. Cases may be closed where it is known that OC or DOJ has in the past, not taken this type of case. It is not necessary for the regulatory element to inquire on each and every case. This data element is also used to correct any errors made in the previous quarterly report and as a "catch all" for NC cases that are not resolved by one of the methods in paragraphs A-3: 5(p) through 5(s).

(u) "Pending". QPDS generates the number of NC cases unresolved at the end of the quarter. This figure is calculated using the data with the formula: $u = [(m + o) - (p + q + r + s + t)]$. Pending files include those submitted to OC and/or DOJ for legal action, until the case is closed.

6. Attached for reference are representations of the data entry screens as they appear when using the QPDS program.