U.S. Government Accountability Office

Army Corps of Engineers: Determinations That Projects Do Not Need Environmental Mitigation Should Be Clarified

GAO-27-108551
Q&A Report to Congressional Committees
October 8, 2026

Accessible Version

Why This Matters

The U.S. Army Corps of Engineers is one of the world's largest public engineering, design, and construction management agencies. Through its Civil Works program, the Corps plans, constructs, operates, and maintains water resources projects to improve navigation channels, reduce flood and storm damage, and restore aquatic ecosystems around the country. Some of these projects can have an adverse impact on the environment. Various laws and regulations therefore require that the Corps identify measures to mitigate unavoidable impacts as part of its project planning.

Specifically, the Corps is required to plan for environmental mitigation—that is, to take actions to avoid, minimize, or compensate for expected losses to fish and wildlife and damage to ecological resources resulting from its projects. Such actions might include stabilizing the bank of a waterway to control erosion or restoring a wetland area to provide new habitat for fish and wildlife (see fig.1). Alternatively, the Corps can make a determination that mitigation is not necessary.

Figure 1: U.S. Army Corps of Engineers' Efforts to Control Erosion in the American River Levee System

Source: U.S. Army Corps of Engineers, Sacramento District. | GAO-27-108551

The Water Resources Development Act of 2022 (Public Law 117-263) includes a

provision for GAO to, among other things, review Corps plans to mitigate losses to fish and wildlife and damage to ecological resources resulting from Civil Works projects. This report provides information on the Corps's mitigation determinations and reporting for its Civil Works projects, including the extent to which mitigation plans for impacts to fish and wildlife and ecological resources, or determinations that mitigation is not necessary, are included in reports submitted to Congress for project authorization.

Key Takeaways

- For Civil Works projects submitted to Congress for authorization during calendar years 2020 through 2025, the Corps determined that 30 percent of projects needed a plan to mitigate losses to fish and wildlife and damage to ecological resources.
- Mitigation plans for Civil Works projects generally included selected mitigation planning components from the 2008 Rule "Compensatory Mitigation for Losses of Aquatic Resources" (73 Fed. Reg. 19594), with differences in how information on the components was provided and the amount of detail.
- For Civil Works projects without mitigation plans, Chief's Reports and feasibility reports generally did not provide clearly identifiable determinations that no mitigation for a project was needed, though such documented determinations are required by statute. We recommend that the Corps develop guidance on documenting and justifying its determinations that no mitigation is needed. The Office of the Assistant Secretary of the Army for Civil Works did not concur. As discussed later in the report, GAO maintains that the Corps should implement the recommendation.

Background

The Corps conducts feasibility studies as an integral initial step in determining whether and how to undertake Civil Works projects to develop water resources—for example, to improve navigation channels or manage flood risks. The Corps must prepare a feasibility report, based on a feasibility study, for any Civil Works project it submits to Congress for authorization.[1] The feasibility report includes the project alternatives that the Corps considered during the feasibility study. The Corps's Chief of Engineers also submits a report to Congress to provide the recommended plan for the project, commonly referred to as the Chief's Report. In submitting reports to Congress, federal statute requires the Corps to include either (1) a mitigation plan for addressing the adverse impact on fish and wildlife and ecological resources or (2) a "no-mitigation determination" finding that mitigation is not necessary because the project will have a negligible adverse impact on such resources.[2]

For Civil Works projects needing mitigation, Corps districts develop mitigation plans, which headquarters reviews and approves in concert with its review of feasibility studies. In these plans, the Corps is required to address a range of elements, including criteria for determining ecological success, monitoring of mitigation measures, and contingency plans.[3] Additionally, the Corps must ensure that these mitigation plans comply with the mitigation standards and policies of its Regulatory Program, which oversees projects that are permitted by the Corps and undertaken by permittees.[4]

The timeline and requirements for mitigation can vary widely depending on the nature of the mitigation required. Additionally, the Corps may conduct the mitigation itself or enter into an agreement with a third party to conduct the mitigation. Third parties may include mitigation banks, which are typically private, for-profit entities.[5] They may also include in-lieu fee programs which are sponsored by government entities or nonprofit organizations.[6]

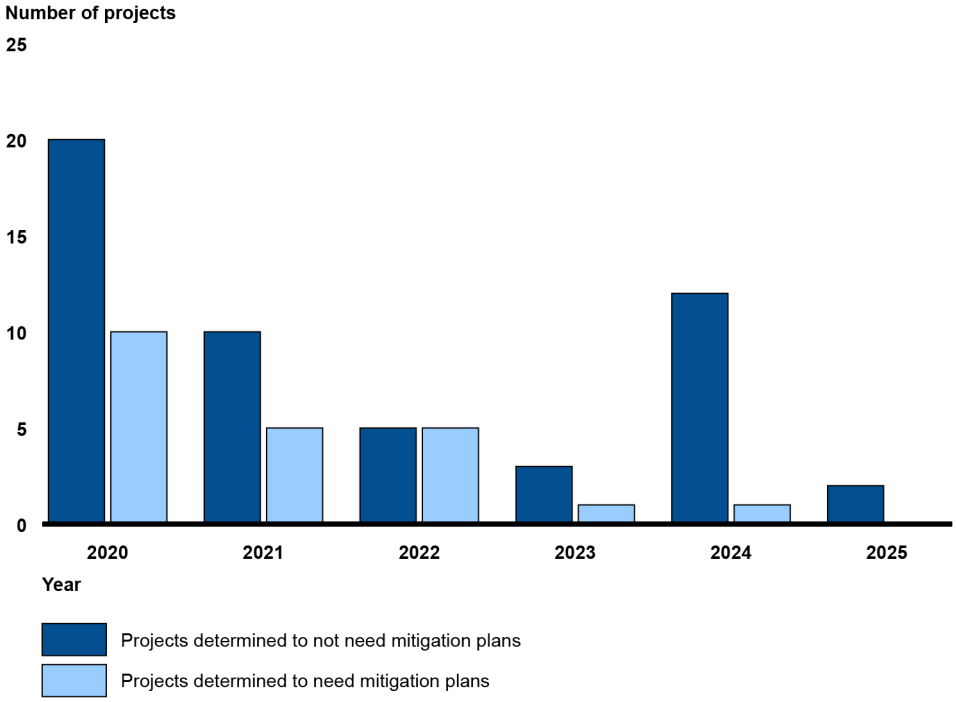
The cost for mitigation can depend on the nature and complexity of the Civil Works project. In general, factors affecting mitigation costs can include the acquisition of land for mitigation, the scale of mitigation activities, and the long-term maintenance and monitoring required to help ensure ecological success of mitigation efforts. The Corps typically shares costs with the nonfederal sponsor of the project—such as a state government, local government, or other organization—via a cost-sharing agreement known as a project partnership agreement.

To what extent did the Corps determine that mitigation plans were needed for Civil Works projects?

Of the 74 Civil Works projects submitted to Congress for authorization during calendar years 2020 through 2025, the Corps determined that mitigation plans were needed for 30 percent (22 out of 74) of the projects. The Corps determined that mitigation plans were not needed for 70 percent (52 out of 74) of the projects.

During the 6-year period that we reviewed, the proportion of projects for which the Corps determined that mitigation plans were needed varied (see fig. 2). For example, in calendar year 2022, the Corps determined that 50 percent (five out of 10) of the projects needed mitigation plans. However, in 2024, the Corps determined that one out of the 13 projects submitted for authorization that year needed a mitigation plan while the remaining projects did not.

Figure 2: Number of Civil Works Projects Submitted for Authorization During Calendar Years 2020–2025 and the Need for Mitigation Plans, as Determined by the U.S. Army Corps of Engineers



Source: GAO analysis of U.S. Army Corps of Engineers information. | GAO-27-108551

Corps officials noted that a Civil Works project's mission can affect its need for mitigation. For example, projects whose sole mission is aquatic ecosystem or environmental restoration are generally not likely to have an adverse impact on fish and wildlife and ecological resources, given the nature of the projects. Of the 52 projects submitted for authorization during calendar years 2020 through 2025, without mitigation plans, two were solely focused on aquatic ecosystem restoration and seven solely on environmental restoration. In contrast, Corps officials noted that projects whose mission include navigation, flood risk

management, or coastal storm risk management are more likely to have an adverse impact on fish and wildlife that necessitates mitigation. Forty-three of the projects submitted for authorization during calendar years 2020 through 2025 without mitigation plans included these missions in some form.

To what extent did the Corps's mitigation plans for Civil Works projects include selected components from the 2008 Rule?

Mitigation plans for Civil Works projects the Corps submitted to Congress for authorization during calendar years 2020 through 2025 generally included selected components from the 2008 Rule. However, the plans differed in how the information was provided and the amount of detail.

In addition to the various mitigation requirements for Civil Works projects, the Corps must ensure that mitigation plans for Civil Works projects comply with the mitigation planning standards of its Regulatory Program, including the 2008 Rule.[7] The rule includes 12 components that must be included in mitigation plans for projects permitted under the Regulatory Program. The 12 components address various steps in the mitigation planning process. These include defining mitigation objectives and site selection criteria at the outset, laying out a work plan and monitoring requirements for mitigation activities, and planning for long-term sustainability and adaptive management if unforeseen changes at the site occur.[8]

The 22 projects with mitigation plans submitted to Congress during calendar years 2020 through 2025 generally included the 10 (out of 12) components of the 2008 Rule that we selected for review based on their applicability to the procedures and policies of the Civil Works program.[9] The plans included the selected components to some degree, with some differences in how the information was provided and the amount of detail.[10] For example:

- Some mitigation plans provided detailed descriptions highlighting criteria for selecting a site for mitigation, while others provided more general descriptions of the area selected for mitigation.
- In some cases, mitigation plans combined discussions of maintenance, monitoring, and long-term management in some form, without clear distinctions between the components.
- Some mitigation plans presented information on ecological performance standards, such as acreage or percentage of native plant cover, to varying degrees of specificity.

In 2023, the Corps issued internal guidance, "Civil Works Compensatory Mitigation Plans Format and Content Guide," to help support agency officials in developing and writing mitigation plans. According to Corps headquarters officials reviewing mitigation plans, the content and presentation of information in mitigation plans have varied over the years, and the goal in creating the guide was to bring more consistency. The guide states that it covers the "components of a legally and policy-compliant compensatory mitigation plan" and provides a template for mitigation plans, with clearly delineated sections and instructions for what to include in each section. The guide includes information related to the 2008 Rule components, as well as other information for mitigation planning and provides procedural instructions and example text for detailing some of the components.

One of the 22 mitigation plans in our study was developed in 2023, the year of the guide's release. In this mitigation plan, eight of the selected components of the 2008 Rule were clearly identifiable, with separate sections that clearly labeled and provided detailed plans for each of the selected components.[11] Corps officials indicated that they expect future mitigation plans to follow the template in the guide.

To what extent did the Corps document in Chief's Reports and feasibility reports that no mitigation was needed?

In Chief's Reports for Civil Works projects submitted to Congress for authorization during calendar years 2020 through 2025, as well as the supporting feasibility reports, the Corps did not clearly document its determinations that mitigation was not needed. Federal statute requires the Corps to include such determinations for Civil Works projects without a mitigation plan in reports seeking project authorization.[12] Specifically, the Corps is required to document in these reports its determination that the project will have a negligible adverse impact on fish and wildlife and ecological resources without implementing mitigation measures.

We reviewed Chief's Reports for the 52 Civil Works projects submitted to Congress for authorization during calendar years 2020 through 2025 without a mitigation plan and found that they generally provided limited information about the no-mitigation determinations.

For example, we found that all but one of the Chief's Reports included language that was general and not specific to fish and wildlife and ecological resources. One Chief's Report included more specific language, but it was still unclear if it accounted for impacts on all fish and wildlife and ecological resources.[13] Additionally, none of the Chief's Reports that we reviewed used language to specifically indicate that the impact on fish and wildlife and ecological resources would be negligible. Reports included language, such as:

- "the plan has been designed to avoid and minimize environmental impacts and would not result in unavoidable significant adverse impacts";
- "the recommended plan would not have any significant adverse effects; therefore, no compensatory mitigation would be required"; and
- "no compensatory mitigation measures have been identified for impacts associated with the implementation of the preferred alternative"

Moreover, none of the Chief's Reports that we reviewed provided details on how the Corps determined that the adverse impact on fish and wildlife and ecological resources from the project would be negligible.

Beyond the Chief's Reports, we also reviewed 14 feasibility reports sampled from the 52 Civil Works projects submitted to Congress during 2020 through 2025 without a mitigation plan. Corps officials told us that these feasibility reports are publicly available and are also often sent to Congress after the agency submits the Chief's Reports.

The feasibility reports we reviewed provided additional information about the recommended projects, but the information about the no-mitigation determinations was not clearly presented. For example:

- Most of the feasibility reports did not include a clear summary statement in a readily identifiable section explaining that the adverse impact on fish and wildlife and ecological resources was negligible, and thus no mitigation was needed.
- For some of the feasibility reports, the report sections highlighting environmental consequences and effects discussed the adverse impact on a resource-by-resource basis, making it difficult to determine if the adverse impact was negligible for all fish and wildlife and ecological resources, or only for specific resources.

According to Corps officials, given their focus on the extensive and detailed content that goes into feasibility reports, they have not consistently focused on documenting determinations that no mitigation is needed and the underlying rationale in a clear, summary format. Corps headquarters officials also told us

that they have not issued internal guidance on how to document no-mitigation determinations in Chief's Reports and feasibility reports. However, they stated that it would likely be beneficial for Congress and the public if their reports included more clearly identifiable information on their statutorily required no-mitigation determinations. Additionally, Standards for Internal Control in the Federal Government emphasize that management should communicate relevant and quality information externally so that external parties can help the entity achieve its objectives. In the Corps's case, quality information includes clearly identifying its determinations that the adverse impacts of a project are negligible and why. By developing guidance for clearly documenting the basis for its determinations that no mitigation is needed, the Corps could better assure Congress that authorization of Civil Works projects without mitigation will not result in undue impacts on fish and wildlife and ecological resources.

Conclusions

Corps efforts to build and maintain water resources infrastructure, such as levees, can result in unavoidable impacts to the environment. Depending on the nature and scale of water resources projects, potential impacts might include losses to fish and wildlife and damage to ecological resources. Consequently, various laws and regulations require that the Corps incorporate mitigation into project planning as warranted. Just as importantly, the Corps is required to document instances in which it determines that mitigation is not necessary. However, Chief's Reports and supporting feasibility reports for projects that the Corps submitted to Congress for authorization during calendar years 2020 through 2025 did not include clear determinations that mitigation was not necessary.

In the absence of clearly documented determinations, Congressional decision-makers may not have sufficient information to understand the potential impact of Civil Works projects. By clearly documenting determinations that no mitigation is necessary, the Corps would be able to better demonstrate the basis for its decision-making about important environmental resources to Congress and the public.

Recommendation for Agency Action

The Assistant Secretary of the Army for Civil Works should ensure that the Chief of Engineers and Commanding General of the U.S. Army Corps of Engineers develop guidance for the Corps on documenting and justifying its determinations that no mitigation is needed for Civil Works projects in reports submitted to Congress for authorization. (Recommendation 1)

Agency Comments and Evaluation

We provided a draft of this report for review and comment to the Department of Defense. In its written comments, reprinted in appendix I, the Office of the Assistant Secretary of the Army for Civil Works did not concur with our recommendation and provided technical comments, which we incorporated as appropriate. The written comments stated that reports for Civil Works projects have sufficient technical information for decision-makers and the public and resource agencies to understand when mitigation is or is not included in a final recommendation for project authorization.

As noted in our report, we found that Chief's Reports and feasibility reports that we reviewed did not clearly document determinations that mitigation was not needed. Specifically, we found that the reports did not clearly document that adverse impacts on fish and wildlife and ecological resources from these projects would be negligible, as required by federal statute. The technical information that the Office of the Assistant Secretary cited was not clearly presented in the reports that we reviewed and it was unclear if the information accounted for impacts on all fish and wildlife and ecological resources. Corps officials told us that they

have not issued guidance on how to document no-mitigation determinations in Chief's Reports and feasibility reports and stated that more clearly identifiable information in reports could benefit Congress and the public. These statements from officials during our audit differ from the position provided by the Office of the Assistant Secretary in its written comments and those comments also did not provide additional information to support an alternative conclusion. We continue to believe that better communicating information about no-mitigation determinations, and the rationale for them, would provide greater assurance to the Congress and public that the Corps has accounted for potential environmental impacts of its projects. Therefore, we maintain that the Corps should implement our recommendation.

How GAO Did This Study

To inform our work, we analyzed and reviewed relevant and applicable laws, regulations, and guidance used by the Corps to guide the development of mitigation plans or no-mitigation determinations for its Civil Works projects. We also reviewed relevant laws, regulations, and guidance pertaining to the 2008 Rule to better understand the relationship between the requirements for Civil Works mitigation plans and selected mitigation planning components in the 2008 Rule.

We met with Corps headquarters officials who oversee mitigation planning for the Civil Works program to gather additional information on Civil Works mitigation plans; the process for determining, if applicable, that mitigation is not required; and the relationship between Civil Works mitigation planning and the 2008 Rule. We also reviewed the Civil Works mitigation plans, Chief's Reports, and a non-generalizable sample of feasibility reports for the 74 projects submitted to Congress for authorization during the most recent 6-year time period available, calendar years 2020 through 2025.

For the 22 Civil Works projects with mitigation plans, we assessed the extent to which they included 10 of the 12 mitigation planning components from the 2008 Rule that we selected based on their applicability to the procedures and policies of the Civil Works program. In reviewing each mitigation plan, we looked for language that clearly identified the 10 components, as well as language that was representative of the components. The scope of our review did not include assessing the quality or completeness of the information on the 10 selected mitigation components, or the sufficiency of the planned mitigation itself.

For the 52 Civil Works projects without mitigation plans, we reviewed all of the Chief's Reports and a non-generalizable sample of 14 feasibility reports, to assess the extent to which they included no-mitigation determinations. In reviewing the Chief's Reports and feasibility reports, we looked for language clearly identifying that the project would have a negligible adverse impact on fish and wildlife and ecological resources without mitigation, and thus no mitigation was needed. We chose the 14 feasibility reports based on the eight mission areas.[14] For each mission area, we chose the earliest and most recent feasibility report for projects submitted to Congress during the 2020 through 2025 calendar year time frame. For two mission areas, only one Civil Works project was submitted to Congress during this time frame. This method resulted in a non-generalizable sample that varied in mission area, year, and district. In characterizing the results of our review of the Chief's Reports, we defined "most" as at least 70 percent (36 out of 51) of Chief's Reports.[15] To characterize the results of our review of feasibility reports, we defined "most" as at least 70 percent (10 out of 14) of feasibility reports.

In addition to the provisions addressed in this report, the Water Resources Development Act of 2022 includes a provision for GAO to review the Corps's annual reporting of mitigation activities.[16] To address this provision, in September

2024, we issued a separate report on how the Corps reports and tracks mitigation activities, the extent of environmental restoration from these activities reported by the Corps, the extent to which mitigation is undertaken prior to—or concurrently with—construction, and other information on the Corps's mitigation activities during fiscal years 2008 through 2020.[17]

The act further includes provisions for GAO to review (1) how the processing and approval of mitigation projects and activities affects the timeline for authorized Civil Works projects and (2) how mitigation affects the total cost of Civil Works projects.[18] To address how processing and approval of mitigation projects and activities affects the timeline of Civil Works projects, we gathered general information on project timelines, as noted in the Background. However, we were not able to analyze how mitigation affected project completion timelines due to a lack of data. Specifically, officials in Corps headquarters said that the processing and approval of mitigation projects are among multiple factors that simultaneously affect project completion timelines and available data do not separately identify the impact of each factor. To address how mitigation affects the cost of Civil Works projects, we gathered general information on key drivers of mitigation costs, also noted in the Background. Although some information on mitigation costs is maintained in some individual project files, officials in Corps headquarters said they do not collect comprehensive information on how the actual costs of mitigation ultimately impact the total cost of Civil Works projects.

The act included provisions for GAO to evaluate the performance of different mitigation mechanisms and the efficacy of different methods, to satisfy mitigation requirements.[19] According to our September 2024 report addressing annual reporting of Civil Works mitigation, the limited quality of project-specific mitigation data complicates efforts to assess the overall impact of mitigation. We reported that inconsistent or incomplete information often makes it difficult to draw reliable conclusions about the extent of mitigation activities and their effects. Additionally, Corps officials told us that they generally select a mitigation mechanism and method unique to the Civil Works project and its geographic location, which limits the ability to gather information with which to draw valid comparisons about mitigation mechanisms and methods across Civil Works projects.

We conducted this performance audit from June 2025 to October 2026 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

List of Addressees

The Honorable Shelley Moore Capito
Chairman
The Honorable Sheldon Whitehouse
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Sam Graves
Chairman
The Honorable Rick Larsen
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

We are sending copies of this report to the appropriate congressional committees, the Secretary of Defense, the Assistant Secretary of the Army for Civil Works, the Chief of Engineers and Commanding General of the U.S. Army Corps of Engineers, and other interested parties. In addition, the report is available at no charge on the GAO website at https://www.gao.gov.

GAO Contact Information

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Appendix I: Comments from the Department of Defense

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
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SEP 16 2026

Ms. Rachel Fisk
Acting Director, Natural Resources and Environment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Fisk:

Our office received GAO Draft Report, GAO-26-108551, "Army Corps of Engineers: Determinations That Projects Do Not Need Environmental Mitigation Should Be Clarified" dated 18 August 2026 and appreciates the opportunity to review the draft report. We value the GAO staff's professionalism, collaboration, and insights demonstrated during this audit. Enclosed you will find comments on the Draft Report and U.S. Army Corps of Engineers (USACE) technical comments.

We do not concur with the recommendation in the draft that we need to create more guidance about mitigation decision making on Civil Works projects. The water resources project reports (including associated Chief's Reports) produced by USACE have sufficient technical information for decision makers and the public and resource agencies to understand when habitat mitigation is or is not included in a final recommendation.

Thank you again for the opportunity to comment. My point of contact is Jeffrey Trulick, at Jeffrey.I.trulick.civ@army.mil.

Sincerely,

D. Lee Forsgren

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Senior Official Performing the Duties of the
Assistant Secretary of the Army
(Civil Works)

Enclosures

Accessible Text for Appendix I: Comments from the Department of Defense

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Sincerely,
D. Lee Forsgren
Senior Official Performing the Duties of the
Assistant Secretary of the Army
(Civil Works)

Enclosures

Endnotes

[1]33 U.S.C. § 2282(a)(1).

[2]33 U.S.C. § 2283(d)(1).

[3]33 U.S.C. § 2283(d)(3). The Corps Civil Works projects are also subject to other laws, regulations, and guidance for mitigation planning.

[4]33 U.S.C. § 2283(d)(3)(A). For further information regarding compensatory mitigation under the Corps's Regulatory Program, see GAO, *Clean Water Act: Corps of Engineers Has Improved Oversight of Compensatory Mitigation, but Needs Implementation Guidance,* GAO-26-106827 (Washington, D.C.: Apr. 30, 2026).

[5]Mitigation banks secure land and perform work to improve or preserve ecological functions of aquatic resources at the site. Completing this work creates "credits" that entities may purchase or use from mitigation banks to fulfill their mitigation requirements.

[6]In-lieu fee program sponsors sell credits to entities to meet their mitigation requirements. At a later date, after collecting sufficient funds from multiple entities, sponsors use them to restore wetlands, streams, or other aquatic resources.

[7]33 U.S.C. § 2283(d)(3)(A). Corps issued guidance in 2009 stating that the Civil Works program guidance on mitigation planning is consistent with the standards and policies of the Corps Regulatory Program for wetlands mitigation and statutory requirements for mitigation planning. *See* Corps, *Implementation Guidance for Section 2036(a) of the Water Resources Development Act of 2007 (WRDA 07) – Mitigation for Fish and Wildlife Losses* (Washington, D.C.: August 2009). Compensatory Mitigation for Losses of Aquatic Resources—Final rule, 73 Fed. Reg. 19594, 19597 (Apr. 10, 2008) (codified at 33 C.F.R. § 332.4(c)).

[8]Compensatory Mitigation for Losses of Aquatic Resources—Final rule, 73 Fed. Reg. 19594, 19597 (Apr. 10, 2008) (codified at 33 C.F.R. § 332.4(c)). The required components of a mitigation plan from this rule include the following: objectives, site selection, site protection instrument, baseline information, determination of credits, mitigation work plan, maintenance plan, performance standards, monitoring requirements, long-term management plan, adaptive management plan, and financial assurances. 33 C.F.R. § 332.4(c).

[9]In reviewing mitigation planning components, we excluded two—site protection instruments and financial assurances—because they are typically included in other documentation for Civil Works projects, such as project partnership agreements, developed after mitigation plans have been finalized. Our review focused on whether each of the 10 components was included in some form in the mitigation plan. We did not assess the quality of the information or the depth of the discussion of each of the selected components in the mitigation plans.

[10]Corps officials noted that the 2008 Rule was written for the Regulatory Program and that key differences exist between the Civil Works program and the Regulatory Program. Corps officials said these differences necessitate different approaches and language in mitigation planning for Civil Works projects, compared with mitigation planning for the Regulatory Program.

[11]The eight selected components included the following: objectives, site selection, baseline information, determination of credits, mitigation work plan, performance standards, monitoring requirements, and adaptive management plan.

[12]33 U.S.C. § 2283(d)(1)(B).

[13]The Chief's Report referenced "the natural environment, including wetlands, aquatic habitat, riparian habitat, threatened and endangered species or critical habitat." However, it was unclear if that included all fish and wildlife and ecological resources.

[14]The eight mission areas included Aquatic Ecosystem Restoration, Environmental Restoration, Coastal Storm Risk Management, Coastal Storm Risk Management/Environmental Restoration, Flood Risk Management, Flood Risk Management/Aquatic Ecosystem Restoration, Flood Risk Management/Ecosystem Restoration, and Navigation.

[15]During the 2020 through 2025 time frame, two of the Civil Works projects without a mitigation plan shared a Chief's Report.

[16]Pub. L. No. 117-263, div. H, tit. LXXXI, § 8236(d)(1)(B)(iv), 136 Stat. 2395, 3771.

[17]GAO, *Corps of Engineers: The Status of Construction Project Environmental Mitigation Has Not Been Reported and Tracked as Required*, GAO-24-106929 (Washington, D.C.: Sept.18, 2024).

[18]Pub. L. No. 117-263, div. H, tit. LXXXI, § 8236(d)(1)(B)(i)(VII)-(VIII), 136 Stat. 2395, 3771.

[19]*Id.* § 8236(d)(1)(B)(ii).