



Notification to the public of changes to the District's Regulatory Program practices related to requests for jurisdictional determinations and confirmations of delineations

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FEDERAL PUBLIC NOTICE

The Norfolk District, U.S. Army Corps of Engineers (Corps), is notifying the public of changes to the District's Regulatory Program practices related to requests for jurisdictional determinations (JD) and confirmations of delineations of aquatic resources. The decision to implement these changes is the Corps' response to increases in permit requests and its federal responsibilities that its permit decisions comply with various Laws, Regulations, and Executive Orders, which include but are not limited to, the Clean Water Act (CWA) Section 404 b(1) Guidelines, the Rivers and Harbors Act of 1899 (RHA), the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA), and Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. The desired end state is an increase in the Corps' efficiency in permit evaluations and consultations with our Federal and State partners while continuing to provide the public with confirmation of aquatic resource delineations.

BACKGROUND:

As stated in [Regulatory Guidance Letter 16-01](#) (RGL 16-01), "approved jurisdictional determinations (AJDs) and preliminary JDs (PJDs) are tools used by the U.S. Army Corps of Engineers (Corps) to help implement Section 404 of the Clean Water Act (CWA) and Sections 9 and 10 of the Rivers and Harbors Act of 1899 (RHA)."

The Corps historically provided written JDs in response to all requests, even those not accompanying a permit request. As a service to the public, the Corps' provided those 'stand-alone' JDs to assist landowners and project proponents with their land planning, project design, and their need to secure other authorizations (e.g., building permits, rezoning approvals, and Resource Protection Area determinations) from State and local governments. Over time, these stand-alone JD requests have substantially increased the Corps' workload, thus, impacting our ability to effectively review permit applications and timely regulate activities in the nation's waters, including wetlands.

CHANGES:

Based on the District's workload and available regulatory resources, JDs not associated with a permit request are lower priority. As such, completion of these requests may be delayed.

For projects that can be authorized under a Corps' permit (Individual Permit, Regional Permit, or Nationwide Permit), a **Corps'** **confirmed** wetland delineation, or JD, is not a required component of a complete Department of the Army Application. Therefore, to expedite the review of your requests, the Corps encourages the public to submit the wetland delineation report with the Joint Permit Application (JPA) or Pre-Construction Notification (PCN). The Corps will review the wetland delineation reports concurrently with the JPA or PCN.

For projects that can be authorized under the State Programmatic General Permits (SPGPs), the Corps encourages the public to utilize the Preliminary Screening Process available on the Norfolk District website:
<https://www.nao.usace.army.mil/Missions/Regulatory/RBregional.aspx>) prior to application submittal.

Where no Corps' permit is required because the proposed activity is **not a regulated activity or is exempt** under Section 404(f) of the CWA and is not recaptured, a "no permit required" (NPR) letter may be appropriate. Upon review of the wetland delineation report and development plan, we may issue an NPR letter.

When no permit is required for a proposed activity because there are **no aquatic resources** within the review area, an AJD will still be required.

If you have any questions, please contact Mr. Tucker Smith at (757) 201- 7653 or tucker.smith@usace.army.mil or Ms. Jennifer Serafin at (540) 344-1498 or Jennifer.m.serafin@usace.army.mil

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