



U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): 9/24/2020

ORM Number: NAO-2020-01227-RDB

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: VA City: County/Parish/Borough: Stafford County

Center Coordinates of Review Area: Latitude 38.390216 Longitude -77.457703

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)<sup>3</sup>

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
S-1	1555.122 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This perennial tributary to Potomac Creek has an OHWM, bed and bank, and flows into Potomac Creek, an (a)(2) water, which then flows into the Potomac River, an (a)(1) water.
S-10	202.39 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This perennial tributary to Potomac Creek has an OHWM, bed and bank, and flows into Potomac Creek, an (a)(2) water, which then flows into the Potomac River, an (a)(1) water.
S-2	909.57 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This perennial tributary to Potomac Creek has an OHWM, bed and bank, and flows into Potomac Creek, an (a)(2) water, which then flows into the Potomac River, an (a)(1) water.

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<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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S-3	5.45 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This intermittent tributary has an OHWM, bed and bank, and flows into wetlands that are abutting and hydrologically connected to S-1, an (a)(2) water, which flows into Potomac Creek, which then flows into the Potomac River, an (a)(1) water.
S-5	677.32 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This intermittent tributary has an OHWM, bed and bank, and flows into wetlands that are abutting and hydrologically connected to S-1 and S-2, (a)(2) waters, which flow into Potomac Creek, which then flows into the Potomac River, an (a)(1) water.
S-6	43.69 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This intermittent tributary has an OHWM, bed and bank, and flows into streams and wetlands that are abutting and hydrologically connected to S-1 and S-2, (a)(2) waters, which flow into Potomac Creek, which then flows into the Potomac River, an (a)(1) water.
S-8	303.05 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This intermittent tributary has an OHWM, bed and bank, and flows into streams and wetlands that are abutting and hydrologically connected to S-10, an (a)(2) water, which flows into Potomac Creek, which then flows into the Potomac River, an (a)(1) water.
S-9	63.9 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This intermittent tributary has an OHWM, bed and bank, and flows into S-10, an (a)(2) water, which flows into Potomac Creek, which then flows into the Potomac River, an (a)(1) water.

**Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):**

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
W-15	3.0867	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	This POW impoundment contributes surface water indirectly to the Potomac River, an (a)(1) water in a typical year, as it's outlet drains to A-10, an (a)(2) water, which flows into Potomac Creek, which then flows into the Potomac River.

**Adjacent wetlands ((a)(4) waters):**

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
W-1	0.0868 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PSS wetland is bordering and contiguous to S-2, a perennial stream, an (a)(2) water, which flows into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-10	0.0006 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to S-5, an intermittent stream, an (a)(2) water, which flows into S-1, a perennial stream, an (a)(2) water, and into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-11	0.005 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and

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		water	contiguous to S-5, an intermittent stream, an (a)(2) water, which flows into S-1, a perennial stream, an (a)(2) water, and into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-12	0.0586 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to S-6, an intermittent stream, an (a)(2) water, which flows into S-1, a perennial stream, an (a)(2) water, and into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-13	0.0772 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PSS wetland is bordering and contiguous to S-1, a perennial stream, an (a)(2) water, which flows into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-14	0.0296 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to S-1, a perennial stream, an (a)(2) water, which flows into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-16	0.0012 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to W-15, an (a)(3) water, which flows into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-17	0.0012 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to W-15, an (a)(3) water, which flows into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-18	0.0373 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PEM wetland is bordering and contiguous to W-15, an (a)(3) water, which flows into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-19	0.0952 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to W-15, an (a)(3) water, which flows into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-2	3.9377 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PEM wetland is bordering and contiguous to S-2 and S-1, perennial streams, (a)(2) waters, which flow into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-20	0.1417 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3)	The A4WETABUT PEM wetland is bordering and

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W-21	0.0224 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PSS wetland is bordering and contiguous to W-15, an (a)(3) water, which flows into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-22	0.0377 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to S-8, an intermittent stream, an (a)(2) water, which flows into S-10, a perennial stream, an (a)(2) water, and into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-23	0.1117 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PEM wetland is bordering and contiguous to S-8, an intermittent stream, an (a)(2) water, which flows into S-10, a perennial stream, an (a)(2) water, and into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-24	0.0073 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to S-8, an intermittent stream, an (a)(2) water, which flows into S-10, a perennial stream, an (a)(2) water, and into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-25	0.3768 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to S-8 and S-9, intermittent streams, (a)(2) waters, which flow into S-10, a perennial stream, an (a)(2) water, and into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-26	0.0038 acres	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year	The A4WETFLOOD PFO wetland is located in a FEMA floodplain, and is flooded in a typical year by S-10, a perennial stream, an (a)(2) water, which flows into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-3	0.283 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to S-2, a perennial stream, an (a)(2) water, which flows into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-4	0.0089 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to S-1, a perennial stream, an (a)(2) water, which flows into Potomac Creek, an (a)(2) water

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			outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-5	0.1918 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to S-2 and S-1, perennial streams, (a)(2) waters, which flow into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-6	0.0635 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PSS wetland is bordering and contiguous to S-2 and S-1, perennial streams, (a)(2) waters, which flow into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-7	0.1252 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to S-2 and S-1, perennial streams, (a)(2) waters, which flow into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-8	0.0409 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to S-1, a perennial stream, an (a)(2) water, which flows into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-9	0.1174 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The A4WETABUT PFO wetland is bordering and contiguous to S-1, a perennial stream, an (a)(2) water, which flows into Potomac Creek, an (a)(2) water outside of the site. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
N/A	N/A	N/A	N/A

**III. SUPPORTING INFORMATION**

**A. Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

- Information submitted by, or on behalf of, the applicant/consultant: Waters of the U.S. (Including Wetlands) Delineation and Critical Resource Protection Area Evaluation July 1, 2020 This information (is) sufficient for purposes of this AJD. Rationale: *N/A or describe rationale for insufficiency (including partial insufficiency).*
- Data sheets prepared by the Corps: *Title(s) and/or date(s).*

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- Photographs: Site visit 8/28/2020 Stafford VM NAO 2020-01227 , Photos taken by Regena Bronson
- Corps Site visit(s) conducted on: 8/28/2020.
- Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s).*
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Stafford County Soils Map data (Exhibit 4), the Stafford County Critical Resource Protection Area Map (Exhibit 5),
- USFWS NWI maps: Digital National Wetlands Inventory (Exhibit 3; downloaded March 2019)
- USGS topographic maps: Stafford, VA 1997 USGS Quadrangle (Exhibit 2)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Spring 1994 Near Color Infrared Image from U.S. Geological Survey Digital Orthophoto Quarter Quad (Exhibit 7),
USDA Sources	N/A.
NOAA Sources	N/A.
nearmap	February 2020 Natural Color Image from Nearmap® (Exhibit 9)
State/Local/Tribal Sources	Spring 2017 Near Color Infrared Image from Virginia Base Mapping Program (VBMP)
FEMA	Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, (Exhibit 6; Panels 5101540139E and 5101540140E, Effective 02/04/2005).

**B. Typical year assessment(s):** U.S. Drought Monitor (Exhibit 11)

Maps for the weeks preceding the delineation and stream assessment field work to determine if drought conditions that could affect stream flows were present at the time of the stream assessment field work. The Palmer Index shows that this area is in a period of normal rainfall, and the U.S. Drought Monitor shows this area was not experiencing drought conditions at the time of field work.

**C. Additional comments to support AJD:** Stream evaluation methods developed by the North Carolina Division of Water Quality (NCDWQ)<sup>2</sup> and the Fairfax County Department of Public Works and Environmental Services (DPWES)<sup>3</sup> were applied in the field to determine whether the streams on the site and within 100 feet of the site are ephemeral, intermittent, or perennial. WSSI also reviewed the Palmer Drought Severity Index (Exhibit 10a and Exhibit 10b).

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These jurisdictional waters of the U.S. include two unnamed perennial tributaries to Potomac Creek (a USGS-mapped perennial stream), one of which flows generally in a southern direction along the eastern site boundary, and one of which flows generally in a southeastern direction in the northeastern portion of the site; a pond associated with the unnamed perennial tributaries to Potomac Creek; and intermittent and ephemeral tributaries to Potomac Creek, and PEM, PSS and PFO wetlands associated with these tributaries.

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<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.