



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): 10-AUG-2021

ORM Number: NAO-2008-00903

Associated JDs: N/A

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

State/Territory: VA City: Newport News County/Parish/Borough: Newport News city

Center Coordinates of Review Area: Latitude 37.091784 Longitude -76.534862

**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
Intermittent Stream 1	81 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The unnamed intermittent tributary contributes flow through a culvert to an unnamed perennial tributary, an (a)(2) waterway.
Intermittent Stream 2	754 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The unnamed intermittent tributary contributes flow directly to an unnamed perennial tributary, an (a)(2) waterway.
Perennial Stream	423 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The unnamed stream is a perennial tributary with direct surface flow to the Warwick River which is an (a)(1) navigable waterway.

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<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.



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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
N/A	N/A	N/A	N/A

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

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
PUB	0.004 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The water directly abuts an unnamed perennial tributary, an (a)(2) waterway.

**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
Ephemeral Stream	80 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream has ephemeral flow and therefore is excluded by Regulation.
PEM 1	0.05 acres	(b)(1) Non-adjacent wetland	The wetland directly abuts a stream with ephemeral flow and therefore is excluded by Regulation.
PEM 2	0.02 acres	(b)(1) Non-adjacent wetland	The wetland does not abut an (a)(1)-(a)(3) water, and it does not contribute surface water flow directly or indirectly to an (a)(1) water and it is not inundated by flooding from and (a)(1)-(a)(3) water in a typical year. Aerial imagery indicates that this area may have previously been impacted by construction activities associated with an adjacent trail.
swale	146 feet	(b)(4) Diffuse stormwater run-off over upland or directional sheet flow over upland	This feature has ephemeral flow but lacks an ordinary high water mark and is dominated by upland vegetation. Aerial imagery indicates that this area may have previously been impacted by construction activities associated with an adjacent trail.

**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: *“Wetland Delineation- East Governor Drive,” dated July 20, 2021 and Corps date stamped as received July 20, 2021.*  
This information is sufficient for purposes of this AJD.

Rationale: *The information provided by the applicant was compared to all available information, including aerial imagery and lidar, and the information appears to accurately reflect the conditions on the property.*

Data sheets prepared by the Corps: *Title(s) and/or date(s).*

Photographs: *GoogleEarth, VBMP, Lidar.*

Corps Site visit(s) conducted on: *Date(s).*

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- 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: *Regulatory Reporting Tool.*
- USFWS NWI maps: *Regulatory Reporting Tool.*
- USGS topographic maps: *Mulberry Island 1:24,000.*

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	Lidar
USACE Sources	Regulatory Reporting Tool
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** The agent conducted the wetland delineation during the growing season after an extremely wet period for the region. However, the APT tool indicates that the at the time the data was collected in the field that hydrology was considered to be within the range for normal conditions. Therefore, it is presumed that the site was reviewed at a time that accurately represents the conditions of the site during a typical year.
- C. Additional comments to support AJD:** N/A.

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