



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): 02-AUG-2021  
ORM Number: NAO-2021-01424  
Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE)  
Review Area Location<sup>1</sup>:  
State/Territory: VA City: County/Parish/Borough: Hampton city  
Center Coordinates of Review Area: Latitude 37.02602 Longitude -76.352536

**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
Hampton River	5.101 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	Section 10 navigable water.
Hampton River Branch	0.953 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	Section 10 navigable water.
Tidal Waters 11	0.001 acres	RHA Tidal water is subject to the ebb and flow of the tide	Section 10 navigable water.
Tidal Waters 19 (Brights Cr & Canal)	0.455 acres	RHA Tidal water is subject to the ebb and flow of the tide	Section 10 navigable water.
Tidal Waters 50	0.003 acres	RHA Tidal water is subject to the ebb and flow of the tide	Section 10 navigable water.
Tidal Waters 51	0.004 acres	RHA Tidal water is subject to the ebb and flow of the tide	Section 10 navigable water.
Tidal Waters 6	0.016 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is	Section 10 navigable water.

<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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		subject to the ebb and flow of the tide	
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**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
Hampton River	5.101 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	Section 10 navigable water.
Hampton River Branch	0.953 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	Section 10 navigable water.
Tidal Waters 6	0.016 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	Section 10 navigable water.

**Tributaries ((a)(2) waters):**

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
WUS 31	0.003 acres	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	
WUS 54	0.012 acres	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	

**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
EEM 14 (1-2)	0.019 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.
EEM 14 (3-4)	0.02 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.
EEM 18	0.002 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.
EEM 19	0.126 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.
EEM 25	0.044 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.

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		water	
EEM 50	0.01 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.
EEM 51	0.042 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.
EEM 56	0.002 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.
EEM 6	0.135 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.
PEM 11	0.001 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.
PEMx 53	0.011 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.
PFO 53/54	0.078 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.
PSS 58	0.023 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Adjacent to a1 water.

**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
PEM 13	0.017 acres	(b)(1) Non-adjacent wetland	Is not adjacent to a tributary
PEM 17	0.075 acres	(b)(1) Non-adjacent wetland	Is not adjacent to a tributary
PEM 29	0.066 acres	(b)(1) Non-adjacent wetland	Is not adjacent to a tributary
PEMx 1	0.004 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch not dug through wetlands, does not relocate a tributary nor was dug from a tributary.
PEMx 15	0.201 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch not dug through wetlands, does not relocate a tributary nor was dug from a tributary.
PEMx 2	0.229 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch not dug through wetlands, does not relocate a tributary nor was dug from a tributary.
PEMx 23	0.049 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch not dug through wetlands, does not relocate a tributary nor was dug from a tributary.
PEMx 3	0.03 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch not dug through wetlands, does not relocate a tributary nor was dug from a tributary.
PEMx 5	0.009 acres	(b)(5) Ditch that is not an (a)(1) or	Ditch not dug through wetlands, does not relocate a

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		(a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	tributary nor was dug from a tributary.
PEMx 55	0.013 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch not dug through wetlands, does not relocate a tributary nor was dug from a tributary.
PEMx 7	0.035 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch not dug through wetlands, does not relocate a tributary nor was dug from a tributary.
PEMx Wetland 4	0.05 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch not dug through wetlands, does not relocate a tributary nor was dug from a tributary.
PFO 17	0.006 acres	(b)(1) Non-adjacent wetland	Wetland does not abut an a1-3 tributary, does not receive flood water from any waterbody, are not separated from an a1-a3 water by a natural barrier or artificial barrier.
PFO 21	0.02 acres	(b)(1) Non-adjacent wetland	Wetland does not abut an a1-3 tributary, does not receive flood water from any waterbody, are not separated from an a1-a3 water by a natural barrier or artificial barrier.
PFO12	0.026 acres	(b)(1) Non-adjacent wetland	Wetland does not abut an a1-3 tributary, does not receive flood water from any waterbody, are not separated from an a1-a3 water by a natural barrier or artificial barrier.
PSS 21	0.032 acres	(b)(1) Non-adjacent wetland	Wetland does not abut an a1-3 tributary, does not receive flood water from any waterbody, are not separated from an a1-a3 water by a natural barrier or artificial barrier.
PUB/PEMx 9	0.036 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch not dug through wetlands, does not relocate a tributary nor was dug from a tributary.

**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: *Title(s) and date(s)*.  
This information (*is/is not/is and is not*) 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)*.
- \_\_\_ Photographs: (*NA, aerial, other, aerial and other*) *Title(s) and/or date(s)*.

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- \_\_\_ Corps Site visit(s) conducted on: *Date(s)*.
- \_\_\_ 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: *Title(s) and/or date(s)*.
- \_\_\_ USFWS NWI maps: *Title(s) and/or date(s)*.
- \_\_\_ USGS topographic maps: *Title(s) and/or date(s)*.

**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	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.
- C. Additional comments to support AJD:** APT tool could not be downloaded but rainfall conditions prior to site visit were not extreme.

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