



**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): 2/19/2021
 ORM Number: NAO-2008-02858-rhs
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Virginia City: N/A County/Parish/Borough: Frederick
 Center Coordinates of Review Area: Latitude 38.926695 Longitude -77.361687

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)²

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

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	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
R3(S...)	29244	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	These perennial streams have an OHWM, bed and bank, and flow into Difficult Run, which flows into the Potomac River, a TNW, outside of the study area.
R4(S...)	13726	linear feet	(a)(2) Intermittent tributary contributes	These intermittent streams have an OHWM, bed and bank, and flow into Difficult Run, which flows

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² 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.

³ 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 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.



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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
		surface water flow directly or indirectly to an (a)(1) water in a typical year.	into the Potomac River, a TNW, outside of the study area.

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
PFO(W...)	44.21 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	These PFO wetlands are bordering and contiguous to a tributary to Difficult Run, which flows into Difficult Run, then the Potomac River, a TNW, outside of the study area. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
PSS(W...)	0.82 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	These PSS wetlands are bordering and contiguous to a tributary of Difficult Run which flows into Difficult Run, then the Potomac River, a TNW, outside of the study area. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
PEM(W...)	5.61 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	These PEM wetlands are bordering and contiguous to a tributary of Difficult Run which flows into Difficult Run, then the Potomac River, a TNW, outside of the study area. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.

D. Excluded Waters or Features



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
R6(SS...)	3868	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	These features do not exhibit an OHWM or bed and bank.
PFO(SW...)	0.51	acre(s)	(b)(1) Non-adjacent wetland.	Features do not connect to an (a)(1) to (a)(3) water.
N/A	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: [NVSRB Wetland Re-Delineation, Fairfax County, Virginia dated January 18, 2021.](#)

This information is sufficient for purposes of this AJD.

Rationale: [Confirmed with Corps site visit](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial and Other: in report](#)

Corps site visit(s) conducted on: [January 21, 2021](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [2008-02858](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [in report](#)

USFWS NWI maps: [in report](#)

USGS topographic maps: [in report](#)

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): [According to the APT Output, conditions were normal at the time of field work.](#)

C. Additional comments to support AJD: [N/A](#)

⁴ 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.

⁵ 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.