



**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): 2/8/2021
 ORM Number: NAO-2020-02462-rhs
 Associated JDs: N/A
 Review Area Location¹: State/Territory: VA City: Enter. County/Parish/Borough: Frederick
 Center Coordinates of Review Area: Latitude 39.24138 Longitude -78.09444

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.

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.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Hot Run	25	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			This perennial stream has an OHWM, bed and bank, and flows into Opequon Creek, which flows into the Potomac River, a TNW, outside of the study area.

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.



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

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.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
W-1	0.001	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The PEM wetland is bordering and contiguous to Hot Run, a perennial stream, (a)(2) water, which flows into Opequon Creek, which flows into the Potomac River, a TNW, outside of the study area. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-2	0.001	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The PEM wetland is bordering and contiguous to Hot Run, a perennial stream, (a)(2) water, which flows into Opequon Creek, which flows into the Potomac River, a TNW, outside of the study area. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-3	0.02	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The PEM wetland is bordering and contiguous to Hot Run, a perennial stream, (a)(2) water, which flows into Opequon Creek, which flows into the Potomac River, a TNW, outside of the study area. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-4	0.02	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The PEM wetland is bordering and contiguous to Hot Run, a perennial stream, (a)(2) water, which flows into Opequon Creek, which flows into the Potomac River, a TNW, outside of the study area. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-5	0.002	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The PEM wetland is bordering and contiguous to Hot Run, a perennial stream, (a)(2) water, which flows into Opequon Creek, which flows into the Potomac River, a TNW, outside of the study area. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.
W-6	0.01	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The PFO wetland is bordering and contiguous to Hot Run, a perennial stream, (a)(2) water, which flows into Opequon Creek, which flows into the Potomac River, a TNW, outside of the study area. The limits of this wetland were determined using the 1987 Manual and Regional Supplement.



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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
SW-1	0.003	acre(s)	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	SW-1 is a non-adjacent wetland that lacks a direct hydrologic connection to other Waters of the U.S.
		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 Report, Frederick Water Quarry Intake, and Attachment I: Waters of the U.S. \(Including Wetlands\) Delineation Map](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: 1994 Color Infrared Imagery \(USGS Digital Orthophoto Quarter Quad\); Spring 2009 Natural Color Imagery \(VBMP\); October 2019 Natural Color Imagery \(Nearmap\); Ground level photos, 11/10/2020](#)
- 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: [USDA, Frederick County Digital Data 2019](#)
- USFWS NWI maps: [USFWS, downloaded October 2020](#)
- USGS topographic maps: [Stephenson, VA WV 2001 \(1"=2,000'\)](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.

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.



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

Data Source (select)	Name and/or date and other relevant information
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