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DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA-2025-HQ-0168]

Proposed Collection; Comment Request

AGENCY: U.S. Army Corps of Engineers (Corps), Department of the Army, Department of Defense (DoD).

ACTION: 60-day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Corps announces a proposed change to an existing public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed change to the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: Department of Defense, Privacy, Civil Liberties, and Transparency Directorate, Office of the Director of Administration & Management, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name, docket number and title for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Headquarters, U.S. Army Corps of Engineers, 441 G Street NW Washington, DC 20314-1000, ATTN: Mr. Matt Wilson, or call 202-761-5856.

SUPPLEMENTARY INFORMATION:

TITLE; ASSOCIATED FORM; AND OMB NUMBER: Jurisdictional Determination Forms and Aquatic Resources Delineation Forms; ENG Forms 6247 and 6249 (Jurisdictional Determination Forms) as well as ENG Forms 6116 (0-9) and 6250 (Aquatic Resource Delineation Forms); OMB Control Number 0710-0024.

NEEDS AND USES:

This information collection is currently comprised of two main categories of forms: Aquatic Resources Delineation Forms and Jurisdictional Determination Forms.

Aquatic Resource Delineation Forms

The Corps uses two specific types of aquatic resource delineation forms to determine the location and extent of aquatic resources at a site: 1) the wetland determination data sheets (ENG 6119 (0-9) series) and 2) the Ordinary High-Water Mark field identification data sheet (ENG 6250). While included in this collection, the Corps is not proposing to modify either of these two types of aquatic resource delineation forms.

Jurisdictional Determination Forms

The Corps, through its Regulatory Program, regulates certain activities in “waters of the United States” (WOTUS), pursuant to Section 404 of the Clean Water Act (CWA) (33 United States Code (U.S.C.) 1344). WOTUS is defined under 33 Code of Federal Regulations (CFR) Part 328. The Corps also regulates certain activities in “navigable waters of the United States” pursuant to Sections 9 and 10 of the Rivers and Harbors Act of 1899 (RHA) (33 U.S.C. 401, et seq.). “Navigable waters of the United States” is defined under 33 CFR Part 329. The regulations implementing the CWA and RHA introduced the concept of jurisdictional determinations (JDs) when they “... authorized its district engineers to issue formal determinations of the applicability of the [CWA or RHA] to ... tracts of land.” 33 CFR 320.1(a)(6). The use of such determinations was not addressed by either statute, and the regulations make their use discretionary and do not create a right to a JD. There are two types of JDs: approved JDs (AJDs) and preliminary JDs (PJDs). Both types of JDs specify what geographic areas will be treated as subject to regulation by the Corps under one or both statutes.

This information collection currently implements the collections of information associated with the Corps’ implementation of WOTUS, using two forms: 1) a PJD Form (ENG 6249), and 2) a “JD Request Form” (ENG 6247). The Corps is not proposing to modify either the PJD Form or the JD Request Form. While not part of this collection, the Corps has historically used an AJD form to document its basis of an AJD; however, under the currently operative WOTUS regulatory regimes, the Corps has elected to use Memorandum for Record instead of an AJD “form” to document the basis of its AJDs.

As of this notice, the agencies are currently implementing “waters of the United States” under two regulatory regimes due to ongoing litigation: the Amended 2023 Rule, applied in 24 States, the District of Columbia, and U.S. Territories, and the pre-2015 regulatory regime consistent with the Supreme Court’s Sackett decision, applied in the remaining 26 States. The Amended 2023 Rule refers to the agencies’ final rule “Revised Definition of ‘Waters of the United States’; Conforming” (88 FR 61964, September 8, 2023), while the pre-2015 regime

refers to the agencies' pre-2015 regulations defining "waters of the United States," implemented consistent with the Supreme Court's Sackett decision, relevant case law, and longstanding practice, as informed by applicable guidance, training, and experience.

On November 20, 2025, the U.S. Environmental Protection Agency (EPA) and Department of the Army (the agencies) issued a proposed rule to revise the regulations defining the scope of waters federally covered under the CWA, in light of the U.S. Supreme Court's 2023 decision in *Sackett v. Environmental Protection Agency* (see 90 FR 52498 and Docket ID No. EPA-HQ-OW-2025-0322). As noted in the proposed rule, the agencies' rulemaking does not impose an information collection burden under the Paperwork Reduction Act (PRA) because it does not contain any information collection activities. However, once finalized, it may change terms and concepts used by the agencies to implement certain programs under the CWA. Consequently, the proposed rule notes that the agencies thus may need to revise some of their collections of information to be consistent with the proposed rule and will do so consistent with the PRA and implementing regulations.

As previously mentioned, the Corps is currently using Memorandum for Record instead of an AJD "form" to document the basis of its AJDs under the currently operative WOTUS regulatory regimes. In the event that the agencies issue a new final rule defining WOTUS, the Corps intends to transition back to the use of a designated AJD form to facilitate efficient and consistent documentation of the basis of its AJDs, consistent with implementation under prior WOTUS regimes.

Because the Corps intends to utilize the new AJD form upon the effective date of the anticipated final WOTUS rule, the Corps is publishing this information collection notice to make the public aware of the proposed change to the approved information collection in accordance with the PRA. This proposed change to the Corps existing collection is independent of the agencies' ongoing rulemaking to revise the definition of WOTUS, and therefore comments on

that rulemaking should not be submitted in response to this notice and instead should be submitted to the agencies' separate docket for that rulemaking action (WOTUS Docket ID No. EPA-HQ-OW-2025-0322). It should also be noted that while the agencies anticipate a reduction in the number of respondents who make use of the AJD forms in this collection due to less demand for AJDs and clearer regulatory language associated with the anticipated final WOTUS rule, the specific requirements of any new final rule defining WOTUS will not be known until such time as the final rule is published in the *Federal Register*. Therefore, the Corps is not able to provide a copy of its proposed AJD Form at this time for comment. However, the structure, function, and format of any new AJD Form would be similar to the most recent AJD Form that the Corps developed, Form ENG 6281 (2023 Rule – Approved Jurisdictional Determination (Interim)), which the Corps used to implement the “Revised Definition of ‘Waters of the United States,’” 88 FR 3004 (January 18, 2023) (“2023 Rule”). The ENG 6281 is being included for historic purposes and as a basis for comment on this information collection request.

AFFECTED PUBLIC: Individuals or households.

Request for Corps Jurisdictional Determination (ENG 6247)

ANNUAL BURDEN HOURS: 2,815.

NUMBER OF RESPONDENTS: 16,891.

RESPONSES PER RESPONDENT: 1.

ANNUAL RESPONSES: 16,891.

AVERAGE BURDEN PER RESPONSE: 10 minutes.

Approved Jurisdictional Determination Form (to be developed)

ANNUAL BURDEN HOURS: 13,687.5.

NUMBER OF RESPONDENTS: 5,475.

RESPONSES PER RESPONDENT: 1.

ANNUAL RESPONSES: 5,475.

AVERAGE BURDEN PER RESPONSE: 2.5 hours.

Preliminary JD Form (ENG 6249)

ANNUAL BURDEN HOURS: 625.

NUMBER OF RESPONDENTS: 1,500.

RESPONSES PER RESPONDENT: 1.

ANNUAL RESPONSES: 1,500.

AVERAGE BURDEN PER RESPONSE: 25 minutes.

Ordinary High Water Mark Data Sheet (ENG 6250)

ANNUAL BURDEN HOURS: 19,990.

NUMBER OF RESPONDENTS: 39,980.

RESPONSES PER RESPONDENT: 1.

ANNUAL RESPONSES: 39,980.

AVERAGE BURDEN PER RESPONSE: 30 minutes.

Wetland Determination Data Sheets (ENG 6116 (0-9))

ANNUAL BURDEN HOURS: 48,692.

NUMBER OF RESPONDENTS: 48,692.

RESPONSES PER RESPONDENT: 2.

ANNUAL RESPONSES: 97,384.

AVERAGE BURDEN PER RESPONSE: 30 minutes.

Total

ANNUAL BURDEN HOURS: 85,810.

NUMBER OF RESPONDENTS: 112,538.

ANNUAL RESPONSES: 161,230.

FREQUENCY: On Occasion.

Dated: December 5, 2025.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer,

Department of Defense.

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