

**Jurisdictional Determination Checklist
Huntington District
State of Ohio**

The United States Army Corps of Engineers' (Corps), acting under Section 404 of the Clean Water Act (Section 404) and Section 10 of the Rivers and Harbors Act of 1899 (Section 10) regulates certain activities occurring in waters of the United States. Under Section 404 a Department of the Army (DA) permit must be obtained prior to discharging dredged or fill material into waters of the United States, including adjacent and abutting wetlands. Under Section 10, a DA permit must be obtained for any work in, on, over or under a navigable water of the United States. The Corps' authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328, including the amendment to 33 CFR 328.3 (85 Federal Register 22250), and 329. The limit of Corps jurisdiction for non-tidal waters of the United States in the absence of adjacent wetlands is the ordinary high water mark.

The ordinary high water mark is defined as that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. When adjacent wetlands are present, the jurisdiction extends beyond the ordinary high water mark to the limits of the adjacent wetlands.

Wetlands are defined as those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands separated from other waters of the United States by man-made dikes or barriers, natural river berms, etc. are considered adjacent wetlands. Abutting wetlands are not separated from the tributary by an upland feature, such as a berm or dike.

To determine whether DA authorization is required under Section 404 and/or Section 10, it is necessary for applicants to submit a jurisdictional determination report of the location and boundaries of all potential waters of the United States, including all water features (interstate waters, intrastate lakes, rivers, streams [perennial, intermittent and ephemeral], ponds, wetlands, impoundments of waters and tributaries to these waters as well as adjacent wetlands, and navigable waters of the United States), within the project area.

It is recommended that the jurisdictional delineation be prepared by an environmental consultant familiar with the use of the Corps' 1987 Wetland Delineation Manual and its supplements. The manual identified different methods for conducting delineations; therefore, the method used and rationale for choosing the specific method should be indicated. The Corps has supplemented the 1987 Wetland Delineation Manual with new data forms and indicators that must be used for any data collection for wetland delineations within the Eastern Mountain and Piedmont Land Reserve, Midwest and Northcentral and Northeast Regions of Ohio as shown on the map at: . A copy of the Supplements can be found at: <http://www.lrh.usace.army.mil/permits/wetlands/>.

At a minimum, the following information should be included in the jurisdictional determination report to increase the efficiency of our review process:

1. Name, address and phone number of the current property owner(s), requestor (if different), and agent, if applicable, and a statement granting the Corps permission to access the property; If site access is granted, please indicate whether the landowner would like advance notice of a site visit;
2. A narrative addressing the size of the project site in acres;
3. Directions to the site from the nearest interstate highway;
4. Site location map (8 ½ by 11-inch copies of 7.5-minute United States Geological Survey (USGS) quadrangle maps, national wetland inventory maps, published soil survey maps, scaled aerial photographs, and/or other suitable maps) and center coordinates (provided in latitude and longitude [degree decimal format]) of the site; mapping of information should be clearly marked and shown in relation to the nearest roads, water features, cities and towns; mapping should also include the dates of delineation and mapping, a legend identifying any symbols, shading or patterns, appropriate scale, and boundaries of review area;
5. Map (preferably a 7.5-minute USGS quadrangle map) of the jurisdictional delineation review area – this map should define the boundaries of all aquatic resources present on the property (wetlands, lakes, streams, ponds, ditches, etc.) and provide an estimated size of each aquatic resource (provided in acres for wetlands, lakes and ponds and linear feet and width for streams and rivers); coordinates for each wetland and/or waterway should also be provided; it is preferable to distinguish between wetlands and other water features such as streams and ponds;
6. Name of nearest waterbody/drainage pattern information – characterization of site hydrology by addressing direction (how water flows through or drains from the site), source (surface or subsurface, including potential irrigation influence), frequency and duration of on-site drainage, directional features such as gradients and identifying any named waterways on or in the vicinity of the site; discussion of the surface tributary system for each potential water (noting the surface tributary connection to other waters of the United States), discussion of the hydrologic flow back to the Section 10 navigable water and other pertinent information on hydrology; all unnamed tributaries should be identified as unnamed tributary to the receiving waters (e.g. unnamed tributary to Big Walnut Creek);
7. A functional assessment (i.e. Ohio Rapid Assessment Method [ORAM] and Qualitative Habitat Evaluation Index [QHEI]) or Headwater Habitat Evaluation Index, as appropriate, should be provided for each aquatic resource type within the review area;
 - a. Ohio Environmental Protection Agency (OEPA) has published the ORAM, which can be used to evaluate wetland quality based on functions and values of a wetland. ORAM (version 5.0) Quantitative Rating Forms found at http://www.epa.state.oh.us/dsw/401/oram50fsf_s.pdf should be completed during the wetland delineation and submitted with the report.
 - b. The OEPA developed the QHEI and HHEI as numeric habitat evaluation index that is used to define structural and functional characteristics capable of supporting aquatic life. The QHEI and HHEI are used as gauges in measuring the physical quality of stream habitat and can be used to determine the applicable use designation for a stream. QHEI

forms can be found at

http://www.epa.state.oh.us/dsw/documents/BioCrit88_QHEIIntro.pdf. HHEI forms can be found at <http://www.epa.ohio.gov/dsw/wqs/headwaters/index.aspx>.

8. Information on existing site conditions, including past and present land uses, site modifications, recent disturbances, topography, etc.;
9. A description of riparian and other buffer features around water features in the review area;
10. Rate of average annual flow in cubic feet per second for streams, ditches, lakes and swales (where applicable);
11. Acreage of watershed areas (i.e. 8-digit Hydrologic Unit Code);
12. Acreage of drainage area that is immediately up gradient of the subject wetland/waterway;
13. A description and mapping of those aquatic features that exhibit wetland characteristics and are potentially isolated and/or lack an interstate or foreign commerce connection, including any information that may support the Corps' determination of jurisdiction over such areas;
14. The following should be provided for each delineated stream and ditch:
 - a. channel information (with respect to the top of the bank) on the width, depth and sideslopes of each waterway within the review area;
 - b. indicate if the channel has defined bed and banks and if any ordinary high water mark can be determined;
 - c. indicate the primary substrate of the channel (cobble, silt, rock sand, bedrock, concrete, muck, etc.) and, if vegetated, provide percent cover of vegetation by type;
 - d. describe whether the waterway is natural, artificial (man-made) or manipulated (e.g. straightened, channelized, culverted, etc.);
 - e. describe whether the flow is perennial, intermittent or ephemeral; indicate the average number of flow events per year and duration; indicate if subsurface flow is present and if surface flow is confined, discrete, a combination of both, or overland sheet flow;
 - i. Ephemeral streams have flowing water only during and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow;
 - ii. Intermittent streams have flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow; and

iii. Perennial Streams have flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow;

- f. depiction of ephemeral/intermittent and intermittent/perennial transition points and the methods used to be such calls;
- g. photographs taken from representative vantage points of all waterways;
- h. indicate any other information that may be known such as stream order, 303(d) impaired waters listing, known endangered/threatened species habitat;

15. The following should be provided for each wetland area:

- a. a characterization of site hydrology;
- b. a characterization of vegetative communities and dominant species (listed by *Genus* and *species*) occurring within each community type;
- c. a characterization of the soil types present;
- d. a comparison of soils, vegetative and hydrologic conditions between wetland and upland areas;
- e. photographs taken at the location of any wetland sample location, with locations of data sheets and directional location of ground photographs shown;
- f. wetland determination data forms (including ones completed for upland areas) completed and accurately mapped for each feature, wetland and/or vegetation type present within the review area; depending on the size, shape and overall complexity of site conditions, additional data forms may be required;
- g. indication of wetland type according to vegetation type (i.e. emergent, scrub-shrub and forested); and
- h. national wetland inventory maps and current and historic land uses (i.e. agricultural, industrial, residential, cropland, lawn, forested, etc.).

Upon receipt of the jurisdictional determination report, the Corps will either verify the conclusions provided the report or request changes to the report based on our office or field review. Once the Corps agrees with the conclusions presented in the report, the Corps will typically send verification of the report in writing. Corps verification of jurisdictional delineation reports is valid for a period of up to five years unless site conditions warrant revisions.

Applicants may also request a preliminary jurisdictional determination of the review area. For purposes of computation of impacts, compensatory mitigation requirements and other resource protection measures, a permit decision made on the basis of a preliminary jurisdictional determination will treat all waters and wetlands that would be affected in any way by the permitted activity on the site as if they are jurisdictional waters of the United States. Please indicate whether you desire to exercise this option or obtain an approved jurisdictional determination. Please be aware that an approved jurisdictional determination must be completed to determine if waters and wetlands are non-jurisdictional.