



Public Notice

U.S. Army Corps
Philadelphia District
CENAP-OP-R

Date September 4, 2008

Special Public Notice 08-10

Subject: Local Processing Procedures for Jurisdictional Determinations

On June 26, 2008, the U.S. Army Corps of Engineers (Corps) issued Regulatory Guidance Letter No. 08-02 ([RGL 08-02](#)) to clarify the use of preliminary and approved jurisdictional determinations (JDs). A new form has been provided with the RGL 08-02 for use with preliminary JDs.

A “preliminary JD” is a written indication that there may be waters of the United States, including wetlands, on a parcel or indication of the approximate location(s) of waters of the United States, including wetlands, on a parcel. A preliminary JD may be utilized in the Corps permit application process. A preliminary JD may be voluntarily elected by an applicant for a permit or a JD request in order to streamline the application process by setting aside formal questions regarding Clean Water Act (CWA)/Rivers and Harbor Act (RHA) jurisdiction on a particular site. Preliminary JDs are advisory in nature and may not be appealed.

An “approved JD” is a Corps document stating the presence or absence of waters of the United States, including wetlands, (under the CWA/RHA) on a parcel or a written statement and map identifying the limits of waters of the United States, including wetlands, on a parcel. (A determination that jurisdictional waters are completely absent from a given site is also an “approved JD”.) Approved JDs are documented in accordance with RGL 07-01 and can be appealed through the Corps’ administrative appeal process.

In accordance with RGL 08-02, this special public notice announces local jurisdictional determination procedures to be used by the Philadelphia District to streamline the permit process for applicants who want to move ahead expeditiously to obtain a Corps permit authorization or stand-alone jurisdictional determination. These local JD processing procedures outlined below take effect immediately.

The Philadelphia District will assume that all applicants are electing to seek a permit authorization or a jurisdictional determination based on a preliminary JD unless an approved JD is specifically requested in writing. In order to help streamline the permit/JD process, applicants should submit a signed “Preliminary Jurisdictional Determination Form” with their application package (permit or JD) to formally indicate their willingness to accept a preliminary JD. If a signed Preliminary JD Form is not provided with the applicant’s initial submission, the applicant will be provided the opportunity to elect (or decline) a preliminary JD by way of submitting a signed Preliminary JD Form. At such time that an applicant declines the preliminary JD option, the Corps will proceed to provide an approved JD.

Once the preliminary JD is elected, permit decisions, including the computation of impacts, compensatory mitigation requirements, and other resource protection measures, will generally be made on the basis of the preliminary JD, thereby treating all identified 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 U.S.

The Philadelphia District will continue to follow the guidance provided in RGL 07-01 for permit denials and for those circumstances when approved JDs are requested by a landowner, permit applicant, or “other affected” party.

Please note that the Philadelphia District retains the discretion to use an approved JD where it is determined to be appropriate given the facts of the particular case. Furthermore, Corps authorization may be based on no “official” JD of any type in appropriate circumstances, such as general inquiries or authorizations by non-reporting general permits.

If you have any questions, please contact Mr. William H. Jenkins of this office at 215-656-6726.

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