

## SUPPORTING STATEMENT – PART A

### Wetland Determination Automated Data Sheets and Jurisdictional Determination Forms – 0710-WDAD

#### 1. Need for the Information Collection

A total of 13 forms are included in this submittal, including 10 Automated Wetland Determination Sheets (ENG 6116) and three Jurisdictional Determination forms. These forms are identified below:

##### Automated Wetland Determination Sheets (ADSs):

- Alaska ADS (ENG 6116)
- Arid West Region ADS (ENG 6116-1)
- Atlantic and Gulf Coastal Plain Region ADS (ENG 6116-2)
- Caribbean Islands Region ADS (ENG 6116-3)
- Eastern Mountains and Piedmont Region ADS (ENG 6116-4)
- Great Plains Region ADS (ENG 6116-5)
- Hawai'i and Pacific Islands Region ADS (ENG 6116-6)
- Midwest Region ADS (ENG 6116-7)
- Northcentral and Northeast Region ADS (ENG 6116-8)
- Western Mountains, Valleys, and Coast Region ADS (ENG 6116-9)

##### Jurisdictional Determination Forms (JDs):

- Preliminary Jurisdictional Determination Form
- Approved Jurisdictional Determination Form (Rapanos version)
- Dry Land Approved Jurisdictional Determination Form (Rapanos version)

The need for information collection for each of the ADS and JD Forms is detailed below.

#### **Need for Information Collection: Automated Wetland Determination Sheets**

The U.S. Army Corps of Engineers, through its Regulatory Program, regulates certain activities in waters of the United States. Waters of the United States are defined under 33 CFR Part 328. In order for the Corps to determine the amount and extent of waters of the United States at a site, aquatic resources must be geographically delineated in accordance with established Regulatory regulations, policy, and guidance. Wetland waters of the United States, which are defined in 33 CFR part 328.1, must be delineated in accordance with the 1987 Corps of Engineers Wetlands Delineation Manual (Corps Manual) and the most current applicable regional supplement(s).

The Corps Manual, published in January 1987, is the current Federal delineation manual used by the Corps Regulatory Program and other agencies for the identification and delineation of wetlands. The manual describes technical guidelines and methods using a three-factor approach to identify and delineate wetlands for purposes of Section 404 of the Clean Water Act (33 U.S.C. 1344) or Section 10 of the Rivers and Harbors Act (33 U.S.C. 401, et seq.). In particular, the Corps Manual generally requires positive evidence of hydrophytic vegetation, hydric soils, and wetlands hydrology for a determination that an area is a wetland.

In an effort to address regional wetland characteristics and improve the accuracy and efficiency of wetland delineation procedures, the U.S. Army Corps of Engineers Engineer Research and Development Center (ERDC) developed ten regional supplements to the Corps Manual, the most recent of which were issued in 2006. In developing the regional supplements, the Corps recognized that a single national manual is unable to consider regional differences in climate, geology, soils, hydrology, plant, and animal communities, and other factors that are important to the identification and functioning of wetlands. The wetland indicators and guidance provided in the regional supplements are designed to be used in combination with the Corps Manual to identify wetland waters of the United States.

The ten regions for which regional supplements were developed include: Alaska Region, Arid West Region, Atlantic and Gulf Coastal Plain Region, Caribbean Islands Region, Eastern Mountains and Piedmont Region, Great Plains Region, Hawai'i and Pacific Islands Region, Midwest Region, Northcentral and Northeast Region, and Western Mountains, Valleys, and Coast Region. Each of the ten regional supplements includes a map showing the spatial extent over which the supplement applies. These maps generally correspond to combinations of Land Resource Regions recognized by the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS).

Each of the ten regional supplements includes its own region-specific data form (Appendix C of each supplement) to assist users in the collection of information necessary for the identification and delineation of wetlands in each specific region. These data forms organize the collection of information for each of the three parameters of jurisdictional wetlands (hydrophytic vegetation, soils, and hydrology) and prompt the user to state whether data collected for each parameter has resulted in positive evidence of wetland presence. Users of the wetland data forms must ensure that they are using the correct regional supplement prior to collecting data and completing the form. These forms are most often completed by Corps of Engineers Project Managers (Corps PMs) or environmental consultants.

Although the forms provided in the supplements are effective in helping organize users' data collection process for hydrophytic vegetation, soils, and hydrology, the forms still require that users analyze the data, while employing various reference materials, in order to make conclusions regarding whether each factor is indicative of wetland presence. For vegetation, for example, users must research each plant's wetland indicator status using the Corps' National Wetland Plant List (NWPL) and then transcribe that status on the wetland data form. Based on the absolute percent cover data recorded for each plant species, users then conduct an analysis (using the 'dominance test' or 'prevalence index') to determine whether wetland vegetation is present. For soils, users must reference hydric (wetland) soil descriptions provided in each regional supplement and compare measurements of the soil profile with those descriptions in order to determine whether the site is positive for the presence of wetland soils.

The Automated Wetland Determination Sheets (ADSs) streamline the information collection process by incorporating reference material and analytical processes directly into the form, which is provided as a Microsoft Excel document rather than the PDF form included in the regional supplements. For example, when recording vegetation data, users simply enter the species name – names are stored in the form and made available for selection via drop-down boxes – and the ADS automatically infers species dominance information based on these entries

with no referencing of the NWPL required on the part of the user. Additionally, the ADSs automatically complete data analysis using inputted information (e.g., the “dominance test” for wetland vegetation), saving users time and effort typically required to complete these processes. Such analyses are typically performed by hand using the current forms, introducing a potential source of human error that is eliminated by use of the ADSs.

### **Need for Information Collection: JD Forms**

Approved jurisdictional determinations (AJDs) and preliminary JDs (PJDs) are tools used by the U.S. Army Corps of Engineers (Corps) to help implement Section 404 of the Clean Water Act (33 U.S.C. 1344) and Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, et seq.). Both types of JDs specify what geographic areas will be treated as subject to regulation by the Corps under one or both statutes.

As stated above, three JD-related forms are included in this submittal:

- Preliminary Jurisdictional Determination (PJD) Form
- Approved Jurisdictional Determination (AJD) Form (Rapanos version)
- Dry Land Approved Jurisdictional Determination Form (Rapanos version)

The need for information collection for each of these forms is detailed below.

**Preliminary Jurisdictional Determination Form:** A PJD is defined in Corps regulations at 33 CFR 331.2. When the Corps provides a PJD, or authorizes an activity through a general or individual permit relying on an issued PJD, the Corps is making no legally binding determination of any type regarding whether jurisdiction exists over the particular aquatic resource in question. A PJD is "preliminary" in the sense that a recipient of a PJD can later request and obtain an AJD if that becomes necessary or appropriate during the permit process or during the administrative appeal process.

The PJD Form documents determinations by the Corps that there “may be” waters of the U.S. and/or that there “may be” navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity. The PJD Form includes a supporting data datasheet in which the Corps or applicant document data sources used to complete the PJD. These data sources may include wetland data sheets, such as the ADSs described above, or other information used to identify possible Corps jurisdiction (e.g., maps, aerial photography, etc.).

A PJD:

- 1) may be requested in order to move ahead expeditiously to obtain a Corps permit authorization where the requestor determines that it is in his or her best interest to do so;
- 2) may be requested even where initial indications are that the aquatic resources on a parcel may not be jurisdictional, if the requestor makes an informed, voluntary decision that it is in his or her best interest not to request and obtain an AJD;
- 3) may be used as the basis for a permit decision; however, for purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a PJD will treat all aquatic resources that would be affected in any way by the permitted activity on the parcel as jurisdictional;

- 4) may include the delineation limits of all aquatic resources on a parcel, without determining the jurisdictional status of such aquatic resources; and,
- 5) may be requested through the use of the enclosed "Request for Corps Jurisdictional Determination (JD)" in Appendix 1. Even if the JD requestor does not use the enclosed "Request for Corps JD", the same information and signature provided in the "Request for Corps JD" should be submitted to the Corps district with each JD request.

### AJD Forms

An AJD is defined in Corps regulations at 33 CFR 331.2. A definitive, official determination that there are, or that there are not, jurisdictional aquatic resources on a parcel and the identification of the geographic limits of jurisdictional aquatic resources on a parcel can only be made by means of an AJD. AJDs may be either "stand-alone" AJDs or AJDs associated with permit actions. Some "stand-alone" AJDs may later be associated with permit actions, but at time of issuance are not related to a permit application. A "stand-alone" AJD may be requested so that impacts to jurisdictional aquatic resources may be avoided or minimized during the planning stages of a project, or it may be requested in order to fulfill a local/state authorization requirement.

An AJD:

- 1) will be used if the Corps is determining the presence or absence of jurisdictional aquatic resources on a parcel;
- 2) will be used if the Corps is identifying the geographic limits of jurisdictional aquatic resources on a parcel;
- 3) will remain valid for a period of five years (subject to certain limited exceptions explained in RGL 05-02);
- 4) can be administratively appealed through the Corps administrative appeal process set out at 33 CFR Part 331; and,
- 5) may be requested through the use of the enclosed "Request for Corps Jurisdictional Determination (JD)" in Appendix 1. Even if the JD requestor does not use the enclosed "Request for Corps JD", the same information and signature provided in the "Request for Corps JD" should be submitted to the Corps district with each JD

**Approved Jurisdictional Determination Form:** This form is used for the collection of information necessary to document jurisdictional waters of the U.S. based on the Corps' 1986 regulations, the Corps' 2003 guidance regarding the Supreme Court's decision in *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers* ("SWANCC"), and Corps' 2008 guidance document "Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States & Carabell v. United States*" (Rapanos guidance).

The form includes the following sections:

1. Background Information: This section collects information on AJD date, ORM number, project location, and type of review performed.
2. Summary of Findings: In this section, jurisdictional aquatic resources within the review area are classified in terms of their designation under the Rapanos guidance with their size and jurisdictional limits identified as well. Non-regulated wetlands/waters are also identified.

3. CWA Analysis: In this section, the form guides users through the completion of analyses necessary to determine the jurisdictional status of certain waters of the U.S., such as Traditional Navigable Waters (TNWs) and tributaries to TNWs and conduct significant nexus determinations.
4. Data sources: This section collects information on data that were used to aid in the jurisdictional determination, such as maps, photos, or data sheets (such as the ADSs described above).

**Dry land Approved Jurisdictional Determination Form:** This form is an abbreviated version of the “Approved Jurisdictional Determination Form” that documents the absence of waters of the U.S. on a parcel pursuant to 33 CFR Part 331.2. The form serves as an efficient tool for documenting when sites contain only dry land, reduces confusion for the public about why so many fields on the “Approved Jurisdictional Determination Form” are blank for such determinations, and helps ensure that regulators are accurately and appropriately filling out the approved JD form for such determinations. The form includes the following sections:

1. Background Information: This section collects information on AJD date, ORM number, project location, and type of review performed.
2. Summary of Findings: The section is a highly simplified version of the Summary of Findings section included in the “Approved Jurisdictional Determination Form.” In this section, the form user simply specifies whether there are or are not waters of the U.S. within the review area.
3. Data sources: This section collects information on data that were used to aid in the jurisdictional determination, such as maps, photos, or data sheets (such as the ADSs described above).

The Waters of the United States (WOTUS) current regulations and guidance are currently undergoing rule making efforts. Changes to the current regulations and policies may necessitate changes to the forms included in this request. Latest versions of any forms (including the conclusion of any internal form reviews and form numbers are subject to change) will be provided closer to the end of the review process.

It should be noted some of these forms and data sheets have been in existence for some time and this submittal includes the changes to these forms due to regulation changes or the most recent scientific updates for plants, soils, hydrology indicators. These are being evaluated under a new OMB control number. Some of the information collected is entered into the Corps tracking database and these forms may support associated permit reviews included in collection 0710-0003 which expires on 28 Feb 2022. These forms and data sheets or any variations thereof will be included in the next renewal request for collection 0710-0003 which includes the standard and nationwide permit application forms, and will also include any local district forms in existence when the renewal package is submitted.

## 2. Use of the Information

### **Use of the Information: Automated Wetland Determination Sheets**

Wetland data sheets are included as part of Jurisdictional Delineations (JDs) completed by permit applicants to support determinations as to whether jurisdictional wetlands are present on a project site. The ADSs are formatted such that they may be readily converted to Portable Document Format (PDF) for inclusion as part of the applicant's JD report. The most efficient version of the form is the macro enabled excel spreadsheet which provides data to support the hydrophytic vegetation and hydric soil portion of the form.

Applicants for Corps permits are generally required to submit JDs as part of their permit application or in support of the permit evaluation process. If wetlands are present, the Corps generally requires that JDs include adequately documented wetland data sheets in order for the JD to be considered technically adequate. For example, an adequately documented JD must be provided by permit applicants applying for coverage under the Corps' Nationwide Permit (NWP) Program.<sup>1</sup> Specifically, General Condition #32 of the 2017 Nationwide Permit Program requires that pre-construction notification (PCN) submittals include a "delineation of wetlands, other special aquatic sites, and other waters...on the project site." General Condition #32 further requires that "wetland delineations...be prepared in accordance with the current method required by the Corps."

Information collected in wetland data forms is used extensively for the purpose of establishing Corps jurisdiction and evaluating Corps-jurisdictional activities. The extent of this use is illustrated by the fact that the Corps processes approximately 80,000 permit applications per year, a large number of which propose impacts to wetlands. A single permit application requesting authorization to discharge dredged or fill material into wetlands may require the submittal of a large number of wetland data forms documenting the presence of multiple wetlands of varying sizes (delineation of larger wetlands generally requires the completion of multiple wetland data forms). As an alternative to the wetland data sheets provided in the regional supplements, the ADSs are anticipated to be widely used to support determinations of jurisdictional wetland presence throughout a large number of permit applications.

### **Use of the Information: JD Forms**

The use of the information collected in each of the JD Forms is detailed as follows:

**Preliminary Jurisdictional Determination Form:** The PJD form is used to determine whether aquatic resources that exist on a particular parcel "may be" subject to regulatory jurisdiction. The PJD form cannot be used to determine either that there are no jurisdictional aquatic resources on a parcel at all (e.g., the entire parcel consists of dry land or the parcel only includes non-jurisdictional aquatic resources), or that only a portion of the aquatic resources on a parcel are jurisdictional. This form may include the delineation limits of all aquatic resources on a parcel as long as the PJD does not determine the jurisdictional status of such aquatic resources. The Corps uses the PJD Form to help implement Section 404 of the Clean Water Act and Sections 9 and 10 of the Rivers and Harbors Act of 1899 and to help specify what geographic areas will be treated as subject to regulation by the Corps under one or both statutes.

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<sup>1</sup> NWP verifications are the Corps' most common permit type, accounting for approximately 35,000 of the 56,000 authorizations issued by the Corps in FY18.

**Approved Jurisdictional Determination Form:** This AJD form documents Corps jurisdiction under the Corps' 1986 regulations and 2003/2008 guidance by providing a definitive, official determination that there are/are not jurisdictional aquatic resources on a parcel based on the jurisdictional requirements. This AJD form is also used to officially identify the geographic limits of jurisdictional aquatic resources on a parcel. The Corps uses this AJD Form to help implement Section 404 of the Clean Water Act and Sections 9 and 10 of the Rivers and Harbors Act of 1899 and to help specify what geographic areas will be treated as subject to regulation by the Corps under one or both statutes.

**Dry Land Approved Jurisdictional Determination Form:** This AJD form documents Corps jurisdiction under the Corps' 1986 regulations and 2003/2008 guidance by providing a definitive, official determination that jurisdictional aquatic resources are absent from a parcel. The Corps uses this AJD Form to help implement Section 404 of the Clean Water Act and Sections 9 and 10 of the Rivers and Harbors Act of 1899 and to help specify what geographic areas will be treated as subject to regulation by the Corps under one or both statutes.

### 3. Use of Information Technology

#### **Use of Information Technology: Automated Wetland Determination Sheets**

Users will enter new information in each ADS for each wetland determination completed. The ten different versions of the ADS have been developed as Microsoft Excel files, one for each of the regional supplements, and formatted such that they may be readily converted to PDF for inclusion as part of application submittals, often as supporting information included in the applicant's JD report.

Applicants may submit ADSs electronically in either PDF or Excel format as part of their JD report/application packages. Electronic submittals may be received by the Corps via email or File Transfer Protocol (FTP) services such as Army Research Laboratory (ARL) Secure Access File Exchange (SAFE). The Corps is currently not able to accept automated application submissions. This capability is not being pursued at this time but may be in the future as newly developed technologies become available. We estimate about half of all application forms are received electronically. This percentage is increasing as more applicants become familiar with our program and are emailing in their completed PDF submittals. Additional outreach efforts to describe the submittal process can increase the 50% estimate.

In addition to electronic submittals, the forms may be printed and submitted in hard copy with the applicant's JD report/application package via post mail or via courier for large applications/plans.

#### **Use of Information Technology: JD Forms**

Information technology considerations for each of the JD forms included in this submittal are detailed below.

**Preliminary Jurisdictional Determination Forms:** This form is currently available as a non-fillable PDFs and is an appendix to RGL 16-01. Corps regulators and the public generally

complete this form using the PDF “add text” tool or may complete the form by hand. It is currently undergoing an internal forms review process to receive an ENG Form number at which point it will be converted to a fillable PDF. The content of the form will not change.

**Approved Jurisdictional Determination Form and Dry Land Approved Jurisdictional Determination Form:** These forms are available as Microsoft Word templates that are completed by the applicant or consultant. Users complete these forms type text and select checkboxes in the Word templates in order to provide all the information necessary to document the AJD. These forms are currently undergoing an internal forms review process to receive ENG Form numbers at which point they will be converted to fillable PDFs. The content of the forms will not change.

#### 4. Non-duplication

The information obtained through this collection is unique and is not already available for use or adaptation from another cleared source.

#### 5. Burden on Small Business

This information collection does not impose a significant economic impact on a substantial number of small businesses or entities.

#### 6. Less Frequent Collection

If the ADSs are not made available, the public will not be able to benefit from the streamlined information collection processes that they provide. As discussed above, although basic PDF versions of the wetland data forms are currently available to the public as part of each of the ten regional supplements, these versions do not support the automation capabilities provided by the ADSs. Specifically, the ADSs streamline information collection by incorporating reference material (e.g., NWPL indicator statuses) and analytic processes (e.g., determining hydric soil indicator based on data entry to soil profile) directly into the data form. Without the ADSs, the various automation features that they provide over the current wetland data forms (detailed in Section 1 above), would not be made available to the public. Without these advancements, the public would not realize substantial benefits in terms of time, effort, and accuracy of data collection that would result from use of the ADSs over the current data forms.

#### 7. Paperwork Reduction Act Guidelines

This collection of information does not require collection to be conducted in a manner inconsistent with the guidelines delineated in 5 CFR 1320.5(d)(2).

#### 8. Consultation and Public Comments

### Part A: PUBLIC NOTICE

A 60-Day Federal Register Notice (FRN) for the collection was published on Thursday, May 7, 2020. The 60-Day FRN citation is Volume 85 FRN 27211.



No comments were received during the 60-Day Comment Period.

A 30-Day Federal Register Notice for the collection published on Friday, November 13, 2020. The 30-Day FRN citation is 85 FRN 72639-72640.

Part B: CONSULTATION

**Consultation: Automated Wetland Determination Sheets**

Respondent	Response
John Hallock, New York State Department of Transportation, email dated October 8, 2014	<p>I notice that when I enter a bunch of FACWs, and then 1 FACU (<i>Tsuga Canadensis</i>) as dominants, it still allows me to check the box saying it has passed the Rapid test and not to have the Dominance test calculated. I know you can't do everything, and frankly I think this automated sheet is fantastic – but if able you might want to make it so you can only check that box if there are only FACW or wetter dominants...</p> <p><b>The Corps responded on October 8, 2014 addressing the respondent's concerns but did not complete any updates to the form in response to the comments.</b></p>
Hamp Simkins, Simkins Environmental, LLC, email dated December 5, 2014	<p>This Excel sheet is pretty slick. Have you updated it to include 50/20 calculations? Also, is it available for other regions, or been sent to other Corps districts so they can modify it for their regions? Nice work!</p> <p><b>The Corps responded on December 8, 2014 to indicate that the spreadsheet already calculates the 50/20 rule. The Corps also confirmed that the spreadsheet was under development for all regions except for Alaska.</b></p>
Brian Merrow, Alder Run Engineering, email dated February 4, 2015	<p>In PA I do a lot of work in the Eastern Mountains and Piedmont Region. Is there a Data Form out there for this region in excel like yours? I currently can only find .pdf versions.</p> <p><b>The Corps responded on February 4, 2015 to indicate that the Eastern Mountains and Piedmont Region form was under development and would be released to the public later that year. This form has since been completed and is included as part of this OMB submittal.</b></p>

**Consultation: JD Forms**

Respondent	Response
Lesley Lokovic Gamber, Glenn Lukos Associates, email dated August 22,	I actually found the AJD form to be quite user-friendly and straight forward. It was definitely less burdensome than the previous version and I found the scroll down options, check boxes,

2019	<p>and reference tables to be very efficient. It would be helpful if the form also included a link to the WOUS/non-WOUS definitions and the Clean Water Rule for users' easy access. Maybe also include some additional examples of completed AJD forms (similar to the mitigation ratio checklist) of different jurisdictional scenarios.</p> <p><b>The Corps has noted respondent's comments.</b></p>
Various	<p>Jamie Robb, Wetland Specialist with the Corps Sacramento District, indicated that multiple inquiries have been received regarding the distinction between “watershed size” and “drainage area” on Page 3 of the Clean Water Rule AJD form.</p> <p><b>The Corps has not made any changes to the form to clarify this distinction. Jamie has indicated that watershed size generally be understood to be based on the watershed indicated in Section I of the form. Jamie has indicated that “drainage area” should generally be understood to refer to the area draining into the relevant reach.</b></p>

#### 9. Gifts or Payment

No payments or gifts are being offered to respondents as an incentive to participate in the collection.

#### 10. Confidentiality

A Privacy Act Statement is provided on the last worksheet of each regional ADS Excel workbook. A link to the sheet is provided at the top of the first worksheet under the OMB Control Number information. At the time of OMB submission, only the Alaska Region ADS has the functioning link to the sheet with the Privacy Act Statement, but every regional form will have this added.

A Privacy Act Statement is also provided at the top of the Preliminary Jurisdictional Determination Form. The Privacy Act Statement is not required on the other two JD Forms as they do not collect personal information for a system of records.

Information provided in the ADSs becomes part of the administrative record and may be shared with the Department of Justice or other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by law.

The SORN associated with this collection [#A1145b, Regulatory Program Files] may be accessed at the following link: <https://dpcl.d.defense.gov/Privacy/SORNsIndex/DOD-wide-SORN-Article-View/Article/570115/a1145b-ce/>

A draft copy of the PIA, Civil Works Business Intelligence (CWBI), has been provided with this package for OMB's review.

In accordance with Army Regulation (AR) 25-400-2, records are maintained in the current file area for 6 years after expiration of permits/applications, then destroyed.

#### 11. Sensitive Questions

No questions considered sensitive are being asked in this collection.

#### 12. Respondent Burden, and its Labor Costs

##### **Automated Wetland Determination Sheets**

##### a. Estimation of Respondent Burden

The respondent burden associated with completing ADSs was estimated using two different queries of permit data contained in our ORM2 database, a query of the total number of Approved Jurisdictional Determinations (AJDs) and a query of total NWP verifications issued for activities in Section 404 waters. ORM2 does not specifically store data on the number of wetland data sheets completed, so these queries relied on routine permitting data to obtain reasonable approximations of the total wetland data sheets completed annually. Due to uncertainty underlying each query's ability to approximate the total number of wetland data sheets, we validated these data against results of questions asked ORM2 representatives across districts to estimate the percentage of applications that include a wetland delineation, which was used together with the total applications received annually (approximately 74,000) to estimate total delineations received annually. We considered the ORM2 query result that most closely matched this estimate of total delineations received annually to provide the best approximation of total ADSs completed annually by applicants for the purposes of calculating the respondent burden.

ORM2 Query #1 – Total AJDs that were pending or finalized in ORM2 for FY19: AJDs provide applicants with official determinations of the jurisdictional status of aquatic resources identified in the applicant's JD submittal, including wetlands documented using wetland data forms. The total number of AJDs was considered to approximate the total number of wetland data forms since a large proportion of AJDs document the presence of jurisdictional wetlands. This query identified a total of 4,818 AJDs that were finalized in FY19.

ORM2 Query #2 – Total number of NWP verifications issued for activities within Section 404 waters of the United States: As discussed in Section 2 above, application submittals for NWP verifications require that applicants provide a JD as part of their application submittal. For this reason, the number of NWP verifications may be considered to approximate the total number of wetland data forms, as these forms would be expected to be included with a large proportion of JDs included in PCNs. Results from this query were further filtered to include only those NWP verifications for activities occurring in Section 404 waters of the United States. Jurisdictional activities occurring within Section 404 waters are generally more likely to contain wetland waters of the United States as compared with activities authorized in Section 10-only waters.

This query identified a total of 31,049 NWP verifications issued for activities within Section 404 waters in FY19.

ORM2 representative inquiry: During an October 17, 2019 call, ORM2 representatives were asked to estimate the percentage of applications and standalone JDs that include a wetland delineation as part of their application submittal. On average, respondents indicated that approximately 60 percent of applications and standalone JDs include a wetland delineation. Therefore, considering that approximately 74,000 applications were received by the Corps in FY19, this would equate to approximately 44,400 total wetland delineations submitted annually.

The poll result (44,400 wetland delineations) more closely matched the query result for NWP verifications issued for activities within Section 404 waters (31,049 wetland delineations) than it did the query result for total AJDs (4,818 wetland delineations). Therefore, we determined that 31,049 wetland delineations per year would serve as our estimate of the number of ADSs completed annually by applicants for the purpose of calculating the respondent burden. Selecting the higher of the two queried values also helped ensure that the ADS respondent burden was fully accounted for by minimizing the risk of underestimating this total.

We estimated the total time required by users to complete each ADS as approximately one hour for users with average proficiency with JDs. In practice, this estimate may be lower for users with higher levels of expertise at completing wetland data forms.

Respondent burden based on total NWP verifications issued under Section 404 in FY19:

- 1) Total NWP verifications issued under Section 404 in FY19: 31,049
- 2) Approximate number of wetland data sheets: 31,049
- 3) Hours required to complete each data sheet: 1
- 4) Total respondent burden: 31,049 hours**

b. Labor Cost of Respondent Burden

Based on the estimates obtained above as part of calculating the respondent burden, the total labor cost of the respondent burden was estimated as follows.

Labor cost of respondent burden for completing ADSs

- 1) Total number of ADSs submitted annually: 31,049
- 2) Response time: 1 hour
- 3) Respondent hourly wage: \$25.72
- 4) Labor burden per response: \$25.72
- 5) Total Labor Burden: \$798,580.28

The respondent average hourly work wage was obtained from the Bureau of Labor Statistics website and is reported above. This figure represents the average wage for of all US workers from the May 2019 National Occupational Employment and Wage Estimates, and may be too high or too low, depending on the occupation of each applicant. [https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000)

## **JD Forms**

### a. Estimation of Respondent Burden

The poll of the ORM2 district representatives mentioned above also requested that representatives provide an estimate of the percentage of applications and standalone JDs in which the applicant has provided a completed JD form (PJD form, AJD form, or Dry Land AJD form). The average response from ORM2 representatives was that applicants include completed JD forms with approximately 15 percent of application/standalone JD submittals – this reflects the fact that the Corps, rather than the applicant, usually completes JD forms. Therefore, for each estimate of respondent burden provided below based on ORM2 queries, the ORM2 query results were multiplied by 15 percent (0.15) to obtain the total number of each form completed by applicants.

#### **Preliminary Jurisdictional Determination Form:**

Respondent burden based on total PJDs that were pending or finalized in ORM2 for FY19:

- 1) Total PJDs issued in FY19: 10,947
- 2) Percent of PJD forms completed by applicants: 15%
- 3) Total PJD forms completed by applicants: 1,642
- 4) Hours required to complete each PJD form: 1
- 5) Total respondent burden: 1,642 hours

#### **Approved Jurisdictional Determination Form:**

Respondent burden based on total AJDs (Rapanos) that were pending or finalized in ORM2 for FY19:

- 1) Total AJDs (Rapanos) issued in FY19: 3,631
- 2) Percent of AJD forms completed by applicants: 15%
- 3) Total AJD forms completed by applicants: 545
- 4) Hours required to complete each AJD form: 4
- 5) Total respondent burden: 2,180 hours

#### **Dry Land Approved Jurisdictional Determination Form:**

Respondent burden based on total JDs or delineation concurrences in ORM2 data for FY19 where water type = “Dry Land”:

- 1) Total Dry Land AJDs issued in FY19: 286
- 2) Percent of Dry Land AJD forms completed by applicants: 15%
- 3) Total Dry Land AJD forms completed by applicants: 43
- 4) Hours required to complete each Dry Land AJD form: 2 hours
- 5) Total respondent burden: 86 hours

#### **Total Submission Respondent Burden (JD Forms):**

- 1) Total Number of Respondents: 2,230
- 2) Total Number of Annual Responses: 2,230

3) Total Respondent Burden Hours: 3,908

b. Labor Cost of Respondent Burden

Based on the estimates obtained above for calculating the respondent burden, the total labor cost of the respondent burden was estimated as follows.

**Preliminary Jurisdictional Determination Form:**

Labor cost of respondent burden for completing PJD form:

- 1) Total number of PJD forms completed annually by applicants: 1,642
- 2) Response time: 1 hour
- 3) Respondent hourly wage: \$25.72
- 4) Labor burden per response: \$25.72
- 5) Total Labor Burden: \$42,232.24

**Approved Jurisdictional Determination Form:**

Labor cost of respondent burden for completing AJD form:

- 1) Total number of AJD forms completed annually by applicants: 545
- 2) Response time: 4 hours
- 3) Respondent hourly wage: \$25.72
- 4) Labor burden per response: \$102.88
- 5) Total Labor Burden: \$56,069.60

**Dry Land Approved Jurisdictional Determination Form:**

Labor cost of respondent burden for completing Dry Land AJD form:

- 1) Total number of Dry Land AJD forms completed annually by applicants: 43
- 2) Response time: 2 hours
- 3) Respondent hourly wage: \$25.72
- 4) Labor burden per response: \$51.44
- 5) Total Labor Burden: \$2,211.92

**Total Submission Respondent Labor Cost Burden (JD Forms):**

- 1) Total Number of Annual Responses: 2,230
- 2) Total Labor Burden: \$100,514

The respondent average hourly work wage was obtained from the Bureau of Labor Statistics website and is reported above. This figure represents the average wage for of all US workers from the May 2019 National Occupational Employment and Wage Estimates, and may be too high or too low, depending on the occupation of each applicant. [https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000)

**TOTAL BURDEN ON THE PUBLIC (ADSs and JDs)**

- 1) Total Number of Respondents: 33,279
- 2) Total Number of Annual Responses: 33,279
- 3) Total Respondent Burden Hours: 34,957
- 4) Total Labor Burden: \$899,094

13. Respondent Costs Other Than Burden Hour Costs

There are no annualized costs to the respondents other than the labor burden costs addressed in Section 12 of this document to complete this action.

14. Cost to the Federal Government

**Automated Wetland Determination Sheets**

a. Labor Cost to the Federal Government

- 1) Number of Total Annual Responses: 31,049
- 2) Processing Time per Response: 0.5 hours
- 3) Hourly Wage of Worker(s) Processing Responses: \$29.98
- 4) Cost to Process Each Response: \$14.99
- 5) Total Cost to Process Responses: \$465,424.51

b. Operational and Maintenance Costs

- 1) Equipment: \$0
- 2) Printing: \$0
- 3) Postage: \$0
- 4) Software Purchases: \$0
- 5) Licensing Costs: \$0
- 6) Other: \$0
- 7) Total: \$0

c. Total Cost to the Federal Government (ADS Sheets)

1. Total Operational and Maintenance Costs: \$0
2. Total Labor Cost to the Federal Government: \$465,424.51
3. Total Cost to the Federal Government: \$465,424.51

**JD Forms**

**Preliminary Jurisdictional Determination Form:**

a. Labor Cost to the Federal Government

- 1) Number of Total Annual Responses: 1,642
- 2) Processing Time per Response: 0.5 hours
- 3) Hourly Wage of Worker(s) Processing Responses: \$29.98

- 4) Cost to Process Each Response: \$14.99
- 5) Total Cost to Process Responses: \$24,613.58

**Approved Jurisdictional Determination Form:**

- a. Labor Cost to the Federal Government
  - 1) Number of Total Annual Responses: 545
  - 2) Processing Time per Response: 2 hours
  - 3) Hourly Wage of Worker(s) Processing Responses: \$29.98
  - 4) Cost to Process Each Response: \$59.96
  - 5) Total Cost to Process Responses: \$32,678.20

**Dry Land Approved Jurisdictional Determination Form:**

- a. Labor Cost to the Federal Government
  - 1) Number of Total Annual Responses: 43
  - 2) Processing Time per Response: 1 hours
  - 3) Hourly Wage of Worker(s) Processing Responses: \$29.98
  - 4) Cost to Process Each Response: \$29.98
  - 5) Total Cost to Process Responses: \$1,289.14
- b. Operational and Maintenance Costs
  - 1) Equipment: \$0
  - 2) Printing: \$0
  - 3) Postage: \$0
  - 4) Software Purchases: \$0
  - 5) Licensing Costs: \$0
  - 6) Other: \$0
  - 7) Total: \$0
- c. Total Cost to the Federal Government (JD Forms)
  1. Total Operational and Maintenance Costs: \$0
  2. Total Labor Cost to the Federal Government: \$58,580.92
  3. Total Cost to the Federal Government: \$58,581

The respondent average hourly work wage was obtained from the average of a Corps PM unburdened salary for a GS-11 step 5 (average grade of worker preparing/reviewing JD form) standard hourly rate - [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/GS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/GS_h.pdf)

**TOTAL COST TO THE FEDERAL GOVERNMENT (ADSs and JDs)**

- 1) Total Labor Cost to the Federal Government: \$524,005.43
- 2) Total Operational and Maintenance Costs: \$0



3) Total Cost to the Federal Government: \$524,005

15. Reasons for Change in Burden

This is the first submittal of the ADSs and JD forms for OMB approval. Therefore, there is no change in burden to report.

16. Publication of Results

The results of this information collection will not be published.

17. Non-Display of OMB Expiration Date

We are not seeking approval to omit the display of the expiration date of the OMB approval on the collection instrument.

18. Exceptions to "Certification for Paperwork Reduction Submissions"

We are not requesting any exemptions to the provisions stated in 5 CFR 1320.9.