



**DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000**

Mr. Richard Revesz
Administrator Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Mr. Revesz:

Pursuant to Office of Management and Budget (OMB) procedures established at 5 C.F.R. Part 1320, Controlling Paperwork Burdens on the Public, I request that the proposed Department of Defense (DoD) information collection covered by the enclosed "Approved Jurisdictional Determination Form (Interim) – 2023 Rule" (2023 Rule AJD Form), be processed as an emergency clearance request in accordance with 5 C.F.R. § 1320.13, Emergency Processing.

I have determined that certain information must be documented to support our jurisdictional determinations, and that this form provides the most structured and efficient way of documenting this information. As the 2023 "Revised Definition of 'Waters of the United States'" (hereinafter "the 2023 Rule") became effective 20 March 2023, it will greatly enhance our ability to ensure consistent implementation to have this form in place prior to the time periods established under Part 1320 of the regulations.

It should be noted that the 2023 Rule AJD Form is intended for internal USACE use only and is not intended to be completed by members of the public. There is no regulatory requirement for USACE to use the 2023 Rule AJD Form to document its basis of jurisdiction for jurisdictional determinations completed under the 2023 Rule, as the information can be documented via other means (e.g., a Memorandum for Record). However, the 2023 Rule AJD Form provides a highly efficient and organized process for consistently collecting and summarizing that jurisdictional information. Our use of the 2023 Rule AJD Form will provide public benefit by improving the expediency, accuracy, and consistency of our AJD documentation.

The 2023 Rule was announced on 30 December 2022 and was published in the *Federal Register* on 18 January 2023. The effective date of the 2023 Rule is 20 March 2023. Because USACE was not able to complete development of the 2023 Rule AJD form until it had an opportunity to see the final 2023 Rule, it was not possible for USACE to start the collections process prior to 30 December 2022. USACE has been working through the collections approval process since January 2023 and we have been anticipating that we would be able to use the 2023 Rule AJD Form on an interim basis, consistent with how we have managed the transition to a new JD form during all

previous changes to the regulations defining “waters of the United States”. We were recently informed by OMB that in order for USACE districts to use the 2023 Rule AJD Form we must proceed under an emergency approval. Therefore, USACE respectfully requests emergency approval of the 2023 Rule AJD Form. USACE will continue its effort to complete the full approval process for the 2023 Rule AJD Form and we anticipate that full approval will be obtained prior to the expiration of any emergency approval that is granted. If the 2023 Rule AJD Form is not made available by the 20 March 2023 effective date of the 2023 Rule, the public will not be able to benefit from the streamlined documentation of Corps jurisdiction that it provides.

DoD and USACE have an urgent need to use the 2023 Rule AJD Form to assist with documentation of our jurisdictional decisions under the 2023 Rule. Because of the need for USACE to develop the 2023 Rule AJD Form in such a short period of time following the announcement of the 2023 Rule, it is impracticable for DoD to consult in advance with interested agencies and members of the public in order to minimize the burden of the collection of information pursuant to 5 C.F.R. § 1320.13(c). Therefore, DoD requests a 180-day emergency clearance to establish the collection covered by the 2023 Rule AJD Form. During the 180-day emergency clearance period, DoD will work to establish a regular clearance submission of this information collection request under the Paperwork Reduction Act procedures. As this request for approval concerns an urgent need, DoD is also seeking OMB’s approval to waive the need for the Federal Register Notices otherwise required by 5 C.F.R. §§ 1320.5(a)(1)(iv) and 1320.8(d)(1) prior to publication and implementation of this disclosure.

We would appreciate if you could please provide a determination on this request to collect information under an emergency clearance as soon as possible.

Sincerely,

William T Walker

William T. Walker
Acting Chief, Regulatory
U.S. Army Corps of Engineers,
Headquarters

Enclosure:
As stated

