



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 "Jurisdictional Determination Forms" (JD Forms), 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 collected to support processing of jurisdictional determinations by the U.S. Army Corps of Engineers (USACE), and that the JD Forms are essential to the Regulatory mission of the agency because provide the most structured and efficient way of collecting this information. The final rule "Revised Definition of 'Waters of the United States'; Conforming" (hereinafter "the Conforming Rule") was published in the *Federal Register* on 8 September 2023 and became effective on that same date. It would greatly enhance our ability to ensure consistent implementation of the Conforming Rule to have these forms in place prior to the time periods established under Part 1320 of the regulations.

There is no requirement in USACE's regulations that requires us to use the JD Forms to collect the information needed to process a jurisdictional determination request. However, the JD Forms provide a highly efficient and organized process for consistently collecting and summarizing that information. Our use of the JD Forms will provide public benefit by improving the expediency, accuracy, and consistency of the information we need to respond to a request for a jurisdictional determination.

The Conforming Rule was announced by the U.S. Environmental Protection Agency and the Department of the Army (the agencies) on 29 August 2023, was published in the *Federal Register* on 8 September 2023, and became immediately effective. Because USACE was not party to the agencies' rulemaking process we did not have an opportunity to complete our development of the JD Forms needed to process jurisdictional determinations under the Conforming Rule prior to 29 August 2023. Therefore, it was not possible for USACE to start the final collections process prior to 29 August 2023. USACE proactively initiated the collections emergency approval process for the Conforming Rule information collections on 4 August 2023, in anticipation that

emergency approval from OMB would be needed in order for USACE districts to collect information needed to respond to requests for jurisdictional determinations under the Conforming Rule. Now that the Conforming Rule has been published, USACE respectfully requests emergency approval of the JD Forms. I have determined that emergency approval is necessary because collection of the information on the JD Forms is needed prior to the expiration of the time periods required for the full approval process set forth in part 1320 and that use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information required for this public service. USACE will continue its effort to complete the full approval process for the JD Forms, and we anticipate that full approval will be obtained prior to the expiration of any emergency approval that is granted. If the JD Forms are not made available to the public, the public will not be able to benefit from the streamlined documentation of USACE's jurisdiction that it provides.

DoD and USACE have an urgent need to use the JD Forms to assist with collection of the information needed to respond to requests for jurisdictional determinations. Because of the need for USACE to use the JD Forms to collect information needed to process requests for jurisdictional determinations concurrent with the immediate effective date of the Conforming 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 JD Forms as soon as possible because the need for the JD Forms already exists. 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