



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): May 14, 2021

ORM Number: LRL-2021-298-sea

Associated JDs: LRL-2020-102-sea

Review Area Location¹:

State/Territory: Kentucky City: Louisville County/Parish/Borough: Jefferson County

Center Coordinates of Review Area: Latitude 38.262342 Longitude -85.431104

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)³

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Intermittent 4	1126 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) - (a)(3) water in a typical year. Intermittent 4 flows through Open Water 1 to Perennial Stream 1. Perennial Stream 1 flows into Brush Run to Floyds Fork, to the Salt River, a section 10 water, to the Ohio River, a traditional navigable water. See additional comments below.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide and included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A	N/A	N/A	N/A

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Ephemeral 4	124 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 4 only contains surface water flowing or pooling in direct response to precipitation. Ephemeral 4 is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 5	177 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 5 only contains surface water flowing or pooling in direct response to precipitation. Ephemeral 5 is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 6	105 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 6 only contains surface water flowing or pooling in direct response to precipitation. Ephemeral 6 is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 7	145 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 7 only contains surface water flowing or pooling in direct response to precipitation. Ephemeral 7 is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 8	60 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 8 only contains surface water flowing or pooling in direct response to precipitation. Ephemeral 8 is a (b)(3) water and is therefore excluded from the rule.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

- Information submitted by, or on behalf of, the applicant/consultant: PCN for NWP 29 dated March 31, 2021
This information is sufficient for purposes of this AJD.
Rationale: N/A
- Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: Aerial and other: kygisserver.ky.gov ArcGIS (2018) and site photographs taken February 2, 2021.
Corps Site visit(s) conducted on: *Date(s)*.
- Previous Jurisdictional Determinations (AJDs or PJDs): LRL-2020-102-sea dated September 28, 2020.
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: SSURGO, Jefferson Co, KY (2008).
- USFWS NWI maps: *Title(s) and/or date(s)*.
- USGS topographic maps: Summer Shade, Kentucky Quad – 1:24,000

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Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.
- C. Additional comments to support AJD:** Intermittent 2, Intermittent 3, the lower portion of Intermittent 4, Intermittent 5, Ephemeral 2, Ephemeral 3, Perennial 1, and Open Water 1 were verified in an approved jurisdictional determination dated September 29, 2020.

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