



US Army Corps  
of Engineers  
St Paul District

# Public Notice

ISSUED: **MAR 20 2008**

## Guidelines for Submitting Jurisdictional Determination Requests to the St. Paul District Corps of Engineers

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### 1. PURPOSE OF THIS NOTICE.

The purpose of this notice is to announce the St. Paul District guidelines for submitting information to the Corps of Engineers to facilitate completion of Clean Water Act Section 404 jurisdictional determinations in light of the U.S. Supreme Court decisions in *Solid Waste Agency of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers* and consolidated cases *Rapanos v. United States* and *Carabell v. United States (Rapanos)*.

Applicants may wish to follow the attached guidelines in submitting requests for CWA Section 404 jurisdictional determinations (JDs) or permit applications to facilitate the St. Paul District's review. The St. Paul District will respond to requests for either JDs or Section 404 permits without the suggested information. However, additional review and processing time will likely be required if this information is not received with the requests.

### 2. BACKGROUND.

In its recent decision in *Rapanos*, the Supreme Court addressed the extent of the Federal Government's Clean Water Act jurisdiction, specifically whether a wetland or tributary is a water of the United States.

On June 5, 2007, the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers issued joint guidance to implement the *Rapanos* decision. The guidance is used by EPA regions and Corps districts to determine whether aquatic resources, such as lakes, streams, and wetlands, are waters of the United States and therefore subject to regulation under the CWA. As detailed in the guidance, the Corps is conducting more thorough and robust analyses in its JDs. The guidance is available at [http://www.usace.army.mil/cw/cecwo/reg/cwa\\_guide/cwa\\_guide.htm](http://www.usace.army.mil/cw/cecwo/reg/cwa_guide/cwa_guide.htm).

### 3. ADDITIONAL INFORMATION.


The attached guidelines have been developed by the St. Paul District to facilitate a streamlined process for implementing the *Rapanos* guidance in Wisconsin and Minnesota. Jurisdictional determinations for more complex sites may require additional information and documentation.

The information provided herein does not replace or supersede any of the *Rapanos* jurisdictional determination guidance provided by Corps Headquarters. Instead, these guidelines have been developed to augment the guidance by listing the types of information needed for the Corps to make a jurisdictional determination. If applicants for JDs or permits provide some or all of the information, it will increase the efficiency of the process.

**Operations - Regulatory**

**SUBJECT: Guidelines for Submitting Jurisdictional Determination Requests to the St. Paul District Corps of Engineers**

Questions regarding the St. Paul District guidelines may be directed to Rebecca Gruber in our Waukesha, Wisconsin office at (262) 547-4171, extension 3. Inquiries may also be submitted through the web site or mailed to: Regulatory Branch, St. Paul District, Corps of Engineers, 190 Fifth Street East, St. Paul, Minnesota, 55101-1638.



for Robert J. Whiting  
Chief, Regulatory Branch



# Guidelines for Submitting Jurisdictional Determination (JD) Requests to the St. Paul District Corps of Engineers

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## Part A - GENERAL INFORMATION (for all aquatic resource types):

1. **Name, address, and phone number** of the current property owner(s), requestor (if different), and agent, if applicable.
2. **Site location map and center coordinates of site.** Mapping should include the nearest intersection of two state highways (or the like) and identifiable reference points. A U.S. Geological Survey quadrangle map (at original 1:24,000 scale) is preferred. Coordinates should be provided in latitude/longitude (degree decimal format), Universal Transverse Mercator (UTM), and township, range, section, quarter-section). For linear projects, coordinates of each wetland and/or waterway in the jurisdictional determination review area should be provided.
3. **Map of jurisdictional determination review area.** The jurisdictional review area is the area you are requesting the Corps review for the presence of waters of the United States. For linear projects, start and terminus points are required along with any major directional change. This map should define the boundaries of all aquatic resources present on the property (wetlands, lakes, streams, ditches, etc), and provide an estimated size of each aquatic resource (provided in square footage or acreage for each wetland; linear feet and width of each waterway). The Corps will only determine jurisdiction for the review area(s) on the property specifically identified by the requestor. Omission of other areas on the property does not constitute a "no jurisdiction" determination for those areas.
4. **Name of nearest waterbody/drainage pattern information.** Please indicate how water flows through or drains from the site (including direction and drainage feature), and to what waterway drainage from the site discharges into (either on-site or off-site). If the waterway is unnamed, identify the receiving waters (e.g., unnamed tributary to Cattail Creek).

## Part B - INFORMATION BY AQUATIC RESOURCE TYPE:

### 1. Wetland areas:

- **Wetland Delineation Report.** Wetland delineations should be performed in accordance with the 1987 Corps of Engineers Wetland Delineation Manual (the '87 Manual), and the Guidelines for Submitting Wetland Delineations in Minnesota and Wisconsin (respectively). This information can be found at: <http://www.mvp.usace.army.mil/regulatory/>. In addition, regional supplements to the '87 Manual can be found at: [http://www.usace.army.mil/cw/ccwo/reg/reg\\_supp.htm](http://www.usace.army.mil/cw/ccwo/reg/reg_supp.htm). Blank wetland determination data forms are provided at: <http://www.nab.usace.army.mil/Regulatory/JD/DataForm.pcf>.
- **Functional assessment of wetlands in review area.** A functional assessment should be provided for each wetland type within the review area. The assessment should characterize the functions (not values) provided by the respective wetlands. Please visit <http://www.bwsr.state.mn.us/wetlands/mnram/index.html> to download the Corps preferred wetland assessment program (MnRAM version 3.1).

### 2. Streams and Ditches:

- **Channel dimensions:** Please provide information (with respect to the top of the bank) on the width, depth, and sideslopes of each waterway within the review area. Also please indicate if the channel has defined bed and banks and if any ordinary high water can be determined (and through what indicator).



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- **Channel Substrate:** Please indicate the primary substrate of the channel (cobble, silt, rock, sand, bedrock, concrete, muck, etc.), and if vegetated, please provide percent cover of vegetation by type.
- **General Characteristics** of the waterway. Please describe whether the waterway is natural, artificial (man-made), or manipulated (man-altered). Also offer information regarding tributary gradient, slope stability (erosion), if riffle/pool sequences are present, and any information on tributary pattern (relatively straight, meandering).
- **Flow information:** Please describe whether the flow is intermittent, seasonal (e.g. 90 days of continuous flow), ephemeral, or perennial. If flow is not perennial, please indicate the average number of flow events per year and duration. Please indicate if any subsurface flow is present, and if surface flow is confined, discrete, a combination of both, or overland sheet flow.
- **Culverts and other existing impacts (size, location, length):** Please describe any man-made features placed in, on, over, or within the segment of the waterway within the review area (these should be mapped). If possible, photographs of culverts and drainage features within the review area should be provided. Any off-site information is also welcome.
- **Photos of channel within the review area** should be taken from representative vantage points, and also of any anomaly or unusual areas. Please indicate the location from which the photo was taken, and the date the photo was taken.
- **Miscellaneous information:** Please indicate any other information that may be known, such as stream order (using Strahler method), 303(d) impaired waters listings, if the area is known fish or shellfish habitat, and if any chemical pollutants are known to be present. This list is not inclusive.

### 3. Lakes:

- **Inlet/outlet location and elevation:** this information should include the names (if designated) of the inflow and outflow receiving water.
- **Management plans:** Please include information on any plans for controlling invasive species or stocking fish that may be proposed or in place for the resource in the review area.
- **Public access information (launches, fishing areas, marinas). Please provide a map with the location of the public access.**
- **Miscellaneous information:** Please include any information on the shoreline (stability, substrate), or any information on formal designations such as 303(d) listings, or state designations.

### 4. Swales:

- **Dimensions:** Please provide information (with respect to the top of the bank) on the width, depth, and sideslopes of each swale within the review area if possible. Also please indicate if the channel defined bed and banks and if any ordinary high water can be measured (and through what indicator).
- **Constructed or natural:** Please describe whether the waterway is natural, artificial (man-made), or manipulated (man-altered). Also offer information regarding tributary gradient, slope stability (erosion), if riffle/pool sequences are present, and any information on tributary geometry (relatively straight, meandering).



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- **Flow information:** Please describe whether the flow is intermittent, seasonal, ephemeral, or perennial. If flow is not perennial, please indicate average number of flow events per year and duration. Please indicate if any subsurface flow is present, and if surface flow is confined, discrete, a combination of both, or overland sheet flow.
- **Substrate:** Please indicate the primary substrate of the channel (cobble, silt, rock, sand, bedrock, concrete, muck, etc.), and if vegetated, please provide percent cover of vegetation by type.

## Part C - ADDITIONAL INFORMATION:

1. **Site Access Permission verification.** In making the jurisdictional determination, Corps personnel may be required to complete an on-site field review. Please include a signed statement from the landowner indicating whether or not access is granted, and provide contact information for the landowner (address, phone, and email, if any). If site access is granted, please indicate whether the landowner would like advance notice of the site visit. The Corps will assume that a voicemail or email message left at the contact information provided will serve as sufficient advanced notice, unless the landowner specifies otherwise. Corps personnel will still generally attempt to provide notice even if no advance notice is requested. Please be aware that any delay due to obtaining site access permission may delay the jurisdictional determination and any associated permit decision.
2. **Optional mapping** from as many of the following sources as are available (NOTE: please specify a source, date, and scale (if applicable) for all information provided). Commonly included resources include: aerial photography (multiple years where available), soil survey information, FEMA 100-year floodplain map (or FEMA approved Flood Plain study), USGS Quadrangle map, and infrared aerial photography.
3. **Ground photographs of all aquatic resources within the review area**, taken from representative locations with photo index map identifying photo location, direction, and date taken.
4. **Wetland specific optional information includes:** National Wetland Inventory maps and/or State Wetland maps, Cowardin classification of wetland areas, current and historic land uses (i.e., agricultural, industrial, residential, cropland, lawn, forested, etc.).
5. **Rate of average annual flow in CFS** for streams, ditches, lakes, and swales (where applicable).
6. **Watershed size.** Acreage or square mile area of the 7-digit Hydrologic Unit Code (HUC).
7. **Drainage Area.** Acreage or square mile area of drainage area that is immediately up gradient of the subject wetland/waterway.
8. **Commerce usage:** please indicate if the aquatic resources identified possess any of the following: a recreational, educational, or aesthetic use; a population of fish or shellfish; an industrial use; or whether the aquatic resource crosses state lines.
9. Identify **flow route** from subject resource to downstream Traditional Navigable Water (TNW). An internet link to the St. Paul District list of Federally Navigable Waters of the United States (these are considered TNW's) is included below.



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## INTERNET REFERENCE SITES

### AERIAL PHOTOS (MAY INCLUDE ADDITIONAL DATA LAYERS):

<http://edc.usgs.gov/guides/napp.html>

<http://eros.usgs.gov/products/aerial/doq.html>

<http://terraserver.microsoft.com/>

<http://nationalmap.gov/>

<http://nationalatlas.gov/natlas/Natlasstart.asp>

<http://nmviewogc.cr.usgs.gov/viewer.htm?bbox=-97.3794,43.3481,-89.3807,49.5217>

<http://nhdgeo.usgs.gov/viewer.htm>

<http://www.topozone.com/>

MINNESOTA:

<http://www.lmic.state.mn.us/chouse/metalong.html#imagery>

[http://deli.dnr.state.mn.us/data\\_catalog.html](http://deli.dnr.state.mn.us/data_catalog.html)

WISCONSIN:

<http://dnrmaps.wisconsin.gov/imf/imf.jsp?site=SurfaceWaterViewer>

### CLIMATE DATA:

<http://www.soils.wisc.edu/cgi-bin/asig/HYDAccessPage.rb>

MINNESOTA:

<http://climate.umn.edu/doc/historical.htm>

WISCONSIN:

[http://mcc.sws.uiuc.edu/climate\\_midwest/mwclimate\\_data\\_summaries.htm](http://mcc.sws.uiuc.edu/climate_midwest/mwclimate_data_summaries.htm)

### FISH AND WILDLIFE SERVICE'S WETLAND MAPPER:

<http://wetlandsfws.er.usgs.gov/>

### IMPAIRED WATERS/TMDL'S INFORMATION:

[http://www.epa.gov/R5water/wshednps/topic\\_tmdls.htm](http://www.epa.gov/R5water/wshednps/topic_tmdls.htm)

MINNESOTA:

<http://www.pca.state.mn.us/water/tmdl/tmdl-303dlist.html>

WISCONSIN:

<http://dnr.wi.gov/org/water/wm/wqs/303d/303d.html>

### HYDROLOGIC UNIT CODES AND WATERSHED INFORMATION:

MINNESOTA:

<http://www.dnr.mn.gov/watersheds/subregions.html>

<http://gisdmspl.cr.usgs.gov/index.htm>

WISCONSIN:

<http://pubs.usgs.gov/wri/wri934076/region04.html>

<http://dnr.wi.gov/org/gmu/gmu.html>

### NAVIGABLE WATERS OF THE UNITED STATES:



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<http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=978>

SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION MAPPING:

<http://www.sewrpc.org/regionallandinfo/regionalmapping/default.shtm>

USDA NATURAL RESOURCES CONSERVATION SERVICE SOIL SURVEY:

<http://websoilsurvey.nrcs.usda.gov/app/>

USGS NATIONAL HYDROGRAPHY DATA:

<http://nhd.usgs.gov/>

WATER RESOURCES DATA (SURFACE WATER, STREAMS AND LAKES, CLIMATE DATA):

<http://waterdata.usgs.gov/mn/nwis/rt>

<http://www.crh.noaa.gov/ahps2/index.php?wfo=fgf>

MINNESOTA:

<http://mn.water.usgs.gov/>

<http://www.dnr.mn.gov/waters/data/index.html>

WISCONSIN:

<http://wi.water.usgs.gov/>

<http://dnrmaps.wisconsin.gov/imf/imf.jsp?site=SurfaceWaterViewer>

WISCONSIN CURRENT/HISTORIC LAND USE:

<http://digicoll.library.wisc.edu/SurveyNotes/>

WISCONSIN WETLAND INVENTORY MAPPING:

<http://dnrmaps.wisconsin.gov/imf/imf.jsp?site=SurfaceWaterViewer>