



Public Notice

U.S. Army Corps
of Engineers
Baltimore District

Date September 24, 2007

Special Public Notice # 07-62

Subject: Clean Water Act Guidance to implement the U.S. Supreme Court decision for the Rapanos and Carabell Cases

On June 5, 2007, the U.S. Army Corps of Engineers (Corps) and U.S. Environmental Protection Agency (EPA) issued joint guidance implementing the Supreme Court's decision in the consolidated cases Rapanos v. United States and Carabell v. United States ("*Rapanos*") which addresses the jurisdiction over waters of the United States under the Clean Water Act (CWA). This guidance will be used by EPA regions and Corps Districts to ensure that jurisdictional determinations, permitting actions, and other relevant actions are consistent with the *Rapanos* decision and supported by the administrative record.

Implementation of the *Rapanos* decision and guidance requires more thorough documentation of jurisdictional determinations (JD) using a standardized Approved Jurisdictional Determination Form ("*JD form*") and posting of approved *JD forms* on our District's website. Procedures for conducting an approved JD and documenting practices to support an approved JD, including completing the *JD Form*, is provided in the U.S. Army Corps of Engineers Jurisdictional Determination Form Instructional Guidebook ("*Guidebook*"). The *Guidebook* clarifies commonly used terms on the *JD Form*, presents an overview on jurisdictional practices, and supplements the *JD Form* instructions.

The *JD Form*, *Guidebook*, and additional information on the *Rapanos* guidance may be found on the Corps' website at <http://www.usace.army.mil/cw/cecwo/reg/> or on EPA's website at <http://www.epa.gov/owow/wetlands/>.

In order to help streamline these new JD procedures, we encourage applicants to consider the use of consultants to help perform the delineation, document the basis and rationale for asserting or declining to assert jurisdiction under the CWA, and provide an electronic copy as well as a paper copy of the completed *JD Form* (and supporting documentation) with the permit application or JD request. Detailed instructions, including a checklist of required information, for submitting a request for a JD are available on the Baltimore District's website at <http://www.nab.usace.army.mil/Regulatory/JD/instructions.htm>

During the first six months implementing this guidance, the Corps and EPA invite public comments on case studies and experiences applying the guidance. The agencies, within nine months from the date of issuance, will reissue, revise, or suspend the guidance after carefully considering the public comments received and field experiences with implementing the guidance. Comments can be submitted to docket EPA-HQ-OW-2007-0282 through www.regulations.gov.

If you have any questions, please contact Ms. Beth Bachur of the Baltimore District Regulatory Branch at 410-962-4336.