



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

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## **Wilmington District Guidance on the Use of Preliminary Jurisdictional Determinations**

With the passing of the renewable energy tax incentive, the District has experienced a significant increase in requests for Approved Jurisdictional Determinations (AJDs) associated with the potential construction of solar energy facilities. Many of these requests are not accompanied by development plans, and are for speculative leasing for solar panel/renewable energy production. The U.S. Army Corps of Engineers, Wilmington District (District) is issuing this public notice to clarify when it is appropriate to request Preliminary Jurisdictional Determinations (PJDs) in lieu of AJDs for the purpose of expediting the District's review so that project proponents can move forward with development activities without incurring undue delays.

PJDs can suffice for the purposes of allowing any project, including renewable energy (solar) projects, to move forward without project proponents incurring any additional risk of violating the requirements of Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. While the District recognizes the need for AJDs under certain circumstances, as AJDs accurately represent the limits of Waters of the US on a property, these determinations typically require a site visit to verify the upland/wetland boundary.

In accordance with Regulatory Guidance Letter (RGL) 08-02 (attached) PJDs are advisory, and are not-appealable. However, the District believes that PJDs may be an appropriate tool for project development when the need for detailed information regarding the location of Waters of the US may not be necessary. RGL 08-02 outlines the information which can be used to support the request for a PJD; this information requirement is substantially less than that required for AJD. It is the District's intention to maximize the use of its GIS capability, including LIDAR and other data, to minimize the need for site visits and to verify that a PJD excludes Waters of the US from any areas subject to development.

A No Permit Required letter may be issued by the District when it is in receipt of site information and drawings that clearly indicate that a proposal will have no impact to Waters of the U.S., including wetlands. These options are available to help reduce

timeframes associated with requests for siting of renewable energy projects and identifying the location of aquatic resources on a project site.

Please be advised that your request for a PJD or AJD must be accompanied by the Jurisdictional Determination Request Form, which can be downloaded on our website at: [http://www.saw.usace.army.mil/Portals/59/docs/regulatory/regdocs/JD/SAW\\_JD\\_Request\\_12-2013\\_fillable\\_form.pdf](http://www.saw.usace.army.mil/Portals/59/docs/regulatory/regdocs/JD/SAW_JD_Request_12-2013_fillable_form.pdf)

Questions or comments regarding this Public Notice should be submitted to Mr. Ronnie Smith, Program Manager, U.S. Army Corps of Engineers, 69 Darlington Avenue, Wilmington, North Carolina, 28403-1343, by phone at: 910-251-4829, or by email at: [ronnie.d.smith@usace.army.mil](mailto:ronnie.d.smith@usace.army.mil).

Additional information on our regulatory program can be obtained on our website at: [www.saw.usace.army.mil](http://www.saw.usace.army.mil)

RGL 08-02 can be downloaded at the following link: <http://www.usace.army.mil/Portals/2/docs/civilworks/RGLS/rgl08-02.pdf>