



**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): 8/3/2021

ORM Number: NAE-2021-00859

Associated JDs: N/A

Review Area Location¹: State/Territory: Massachusetts City: Andover County/Parish/Borough: Essex

Center Coordinates of Review Area: Latitude 42.69358 Longitude 71.21022

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
- 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
N/A.	N/A.	N/A.	N/A.

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

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 or 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 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.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland 2	0.28 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 2 is an isolated wetland that appears to have been created from non-wetlands by construction activities – compaction, stripping of surface soils, intercepting groundwater table - in the surrounding office park, starting in 1997. This wetland does not abut any (a)(1) through (a)(3) waters, nor does it receive waters from any (a)(1) through (a)(3) waters in a typical year.
Wetland 3	0.14 acre	(b)(1) Non-adjacent wetland	Wetland 3 is an isolated wetland that appears to have been created from non-wetlands by construction activities – compaction, stripping of surface soils, intercepting groundwater table - in the surrounding office park, starting in 1997. This wetland does not abut any (a)(1) through (a)(3) waters, nor does it receive waters from any (a)(1) through (a)(3) waters in a typical year.

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: [“Request for Approved Jurisdictional Determination Under Section 404 US Clean Water Act – 300 Minuteman Road, Andover, MA” dated “25 March 2021”](#)

This information is sufficient for purposes of this AJD.

Rationale: [See attachment, which includes Attachments B – F from the Request for AJD, dated 25 March 2021](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Select. Title\(s\) and/or date\(s\)](#).
- Corps site visit(s) conducted on: [Date\(s\)](#).
- Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\)](#).
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Title\(s\) and/or date\(s\)](#).
- USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [Title\(s\) and/or date\(s\)](#).

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.

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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Data Source (select)	Name and/or date and other relevant information
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 – a Typical Year Assessment was not performed for the site as there was no evidence of any surface water conveyances that could have provided adjacency for Wetlands 2 and 3 via reception of (a)(1) through (a)(3) waters in a Typical Year.

C. Additional comments to support AJD: This Approved Jurisdictional Determination only addresses Wetlands 2 and 3 on the above referenced site and not any other wetlands and streams on this site. The “Request for AJD” submission included information and maps from USGS, NRCS SSURGO Soils and Soil Survey, FEMA, MADEP, acceptably-completed USACE Wetland Determination Data Forms (NCNE), aerial photographs, and ground photographs, so these resources were examined in completing this determination, but were not highlighted individually above. Wetland 2 and Wetland 3 are isolated wetlands that appear to have formed incidental to construction activities on the site in the 1990s and 2000s. They have no surface water connections to any (a)(1) through (a)(3) waters.